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DEPARTMENT OF THE ENVIRONMENT ACT OF 1990

HEARINGS

BEFORE THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

S. 2006

TO ESTABLISH THE DEPARTMENT OF THE ENVIRONMENT, PROVIDE FOR A GLOBAL ENVIRONMENTAL POLICY OF THE UNITED STATES, AND FOR OTHER PURPOSES

FEBRUARY 6, 7, 8, 1990

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DEPARTMENT OF THE ENVIRONMENT ACT OF 1990

TUESDAY, FEBRUARY 6, 1990

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:35 a.m., in room SD-342, Dirksen Senate Office Building, Hon. John Glenn (Chairman of the Committee) presiding.

Present: Senators Glenn, Sasser, Pryor, Kohl, Roth, Stevens, Cohen, and Heinz.

OPENING STATEMENT OF CHAIRMAN GLENN

Chairman GLENN. The hearing will come to order.

As we approach the end of the 20th century the United States and the nations of the world face very historic challenges that are fraught with hope and with peril. The recent, dramatic changes in the world are not just limited to the highly visible shifts in United States and Soviet relations, as symbolized by the opening of the Berlin Wall and glasnost and perestroika and all the things we are following with interest every day in the papers. Indeed, the real and potential impacts on the human environment of our fragile Earth may be of such magnitude that they will require a level of attention never before imagined.

Public concern in the United States over the environment has grown enormously over the past decade. American citizens have come to learn that environmental protection touches almost every aspect of their lives. Concern over the food we eat, the water we drink, the air we breathe—issues that the Senate is currently addressing—are now dominating the public policy agenda of this country.

It is not all just domestic issues. These problems extend to the international arena as well. The emissions of carbon dioxide and other "greenhouse" gasses are believed to be major contributors to the global warming phenomenon that has potential to cause severe worldwide environmental and economic disruption during the next half century. Over this same time period, destruction of the earth's very, very thin stratospheric ozone layer by chemical emissions poses potentially serious problems affecting the Earth's food supplies and the health of millions of people.

The creation of ozone smog from deteriorating forests, the fall of acid rain, desertification, ocean pollution and trafficking of hazardous wastes are all issues affecting the global commons that require international agreements to achieve long term progress.

It is time for the United States to provide aggressive leadership toward a solution of global environmental problems. To do otherwise would consign the quality of life of all Americans to the decisions of other nations and cede our moral obligation to the global commons we all share.

The Environmental Protection Agency is our Nation's primary institutional safeguard to ensure that the air we breathe, the water we drink and the wastes we dispose of are not harmful to our quality of life. Since the EPA was created in 1970 its workload has grown in proportion with burgeoning environmental problems and often complex Federal laws to address them. However, it has become painfully apparent that the status of the EPA does not reflect the magnitude of the environmental challenge it now faces.

It is a fact of diplomatic life that the seriousness with which one views another government's concerns is influenced by the stature of the person who articulates them. At this time a subcabinet EPA sends the wrong signal to the rest of the world about the priority and the leadership given by the United States to the cause of environmental protection. Moreover, can anyone truly claim that there should be no room at the cabinet table for the agency that bears the enormous responsibility for the basic elements of nature that sustain life?

This problem was underscored at the 67 Nation Ministerial Conference on Atmospheric Pollution and Climate Change held in the Netherlands in November 1989. At this meeting the United States was the only major industrialized nation that did not have a ministerial or cabinet-level representative.

On January 23, 1990, I, with Senator Roth, introduced S. 2006, legislation that today's hearings will explore, to create a Cabinet-level Department of the Environment. I am very gratified that President Bush has endorsed our bill. That was the result of months of negotiation with the administration that began with my meeting with the President in June 1989 to work out all the details of this. The President, in a meeting in the Cabinet Room at the White House, announced his support for this specific bill, and we are very gratified to have that support.

When the question of elevating the Veteran's Administration to cabinet level status came up in the last Congress, we discovered that there were no criteria by which to determine whether an agency should be given Cabinet status. Accordingly, the Governmental Affairs Committee contracted with the National Academy of Public Administration, NAPA, to develop such criteria. In its testimony today NAPA will discuss these criteria as they relate to the EPA elevation.

Our bill also establishes a Bureau of Environmental Statistics to collect, coordinate and disseminate data necessary to shape environmental policy. That has been something that has been needed for a long, long time. You can prove almost anything in the environmental area by which group of experts you want to assemble and which recent study conflicts with what other study. We hope that this Bureau of Environmental Statistics will eventually become the authoritative group analyzing all of these statistics from whatever source. It could eventually be like the Bureau of Labor Statistics in the Labor Department.

Additionally, our legislation authorizes the establishment of an Interagency Committee on Global Environmental Change and calls for new measures by the United States to promote energy conservation in connection with multilateral foreign assistance programs. The bill also calls for the convening in our country of an international meeting on energy efficiency and renewable resources, and establishes the goal of achieving a multilateral global climate protection convention.

Because of the passage of several environmental protection laws over the past several years which have created competing demands and inconsistencies, our bill also provides for a Presidential Commission to assess the efficiency with which we manage our Nation's overall environmental policies. We have a lot of things that overlap.

Having had the rare privilege, in my own case, many years ago to view the Earth in all of its beauty and grandeur from a little different vantage point, the vantage point of space, I am struck by how thin and fragile the environment is that sustains life on our planet. It is a thin film in which we live. It is not a giant stratosphere and atmosphere such as we see in the textbooks that go up almost to infinity. Just to illustrate, almost everyone here has flown cross-country in an airplane at probably 40,000 feet. You are at that point above 80 percent of the Earth's atmosphere. At 40,000 feet you have 80 percent of the earth's atmosphere under you. That is the thin little film in which we live, and if we louse it up we cannot replace it.

That vision, I am gratified to find, is now becoming widely shared. Through the hard work and persistence of people who have dedicated their lives to protecting the environment, we now stand at the threshold of an important and a very positive change. I am confident that the creation of a Department of the Environment will strengthen our Nation's stewardship of this delicate and wonderful planet on which we live.

I wish to welcome today's witnesses and thank them for their testimony. We have read through some of the advance copies of it and it is very thoughtful testimony.

Senator Kohl has to go preside very shortly and I will break our usual routine here and ask if he has an opening statement that he wishes to give.

OPENING STATEMENT OF SENATOR KOHL

Senator Kohl. Thank you, Mr. Chairman. I would first like to commend you for scheduling these hearings so early in the year. I am pleased to say that I am an original cosponsor of your bill, S. 2006, a bill to elevate the EPA to Cabinet-level status.

It is a sorry state of affairs when we find that environmental problems are making headlines in the news almost daily. I believe we are starting to pay a heavy price for years of environmental neglect. We thought there would always be plentiful air, water, and land. We thought it would always be clean and safe. For too long we sacrificed environmental quality for short-term convenience.

Today we know better. We have learned a great deal in the last few decades about the long-term environmental consequences of our actions, and the time has come to give the environment the respect and the care it deserves. I believe this bill is a good place to start.

S. 2006 will help us to better protect our environment by putting the EPA on a level playing field with other Cabinet-level agencies. Contrary to what some might say, this isn't just a symbolic gesture. It is not just a nice bill to pass so we can all go home and say we are environmentalists. We need to enact this bill because it will help to ensure that the environment will be given greater consideration in policy decisions we make throughout our Government. We finally learned that we cannot maintain an adequate national defense or protect human health and safety or provide jobs in a healthy economy unless we also protect the environment.

For me the need for this bill became crystal clear last summer when I held three field hearings in Wisconsin on environmental quality in the Great Lakes. I wanted to find out what the EPA had been doing to implement the Great Lakes Water Quality Agreement, a bilateral agreement between the United States and Canada pledging both nations to improve and maintain water quality in the Great Lakes.

To my dismay I learned that very dangerous toxins are accumulating in the lakes and in the wildlife that depend on the lakes for food and habitat. But despite the fact that the United States has pledged in a formal agreement to take specific actions to improve water quality, I learned that very little is actually being done. And this is very troubling, troubling that the EPA is so lacking in support and resources that the United States cannot even keep its word on international obligations.

I introduced a bill with two of my colleagues on this Committee, Senators Levin and Glenn, to require the EPA to implement our commitments and to help provide the necessary resources. And I hope that our first witness this morning, Mr. Reilly, will be able to support that bill, and I hope that a Cabinet-level agency will be better able to get the job done. In fact, Mr. Reilly, I would appreciate any feedback which you might be able to provide on our bill, S. 1646, when you are in a position to comment.

In closing, I commend you, Senator Glenn, for your work in putting this bill together and scheduling these hearings and I look forward very much to working with you and our colleagues to get this bill to the President's desk as soon as possible. Thank you.

Chairman GLENN. Thank you, Senator Kohl.

Senator Roth, do you have an opening statement?

Senator ROTH. Thank you, Mr. Chairman. I won't read my full statement, but I do have a few comments I would like to make, and I would also like to offer Senator Rudman's opening remarks.

Chairman GLENN. Fine. Those statements will be included in the record in their entirety without objection along with those of Senators Lieberman and Wilson.

[The statements of Senators Rudman, Lieberman, and Wilson follow:]

OPENING STATEMENT OF SENATOR RUDMAN

Mr. Chairman, I want to thank you and Senator Roth for holding this hearing today and for authoring legislation to elevate the Environmental Protection Agency to a cabinet-level Department. I also want to commend President Bush for announcing his support for this measure. I am proud to be a cosponsor of S. 2006, a measure I believe is essential in leading us down the road toward a cleaner environment.

President Bush captured the views of many on this issue in his recent State of the Union Address:

"We will elevate the Environmental Protection Agency to cabinet rank. Not more bureaucracy, not more red tape—but the certainty that here at home, and in our dealings with other nations, environmental issues have the status they deserve."

When Congress created the Environmental Protection Agency, we had only scratched the surface of pollution problems facing our nation. At that time our air and water were choked with pollution, of which the source and potential adverse health effects were relatively unknown. Concerns over these daunting problems lead to the passage of the Clean Air Act, the Clean Water Act, the Superfund Amendments, the Resource Conservation and Recovery Act, the National Environmental Policy Act and many other laws intended to accelerate environmental cleanup and strengthen enforcement efforts. Implementation of these laws and our growing awareness of environmental problems has, over time, increased the critical policy and enforcement role played by the Environmental Protection Agency.

In order to more effectively deal with an ever growing list of environmental concerns, it is essential that EPA be elevated to cabinet rank. More and more of our infrastructure, manufacturing, agricultural and land development decisions are involving the Environmental Protection Agency. When these issues are being discussed during Cabinet meetings, the new Secretary of the Environment should be there to participate.

Environmental problems such as global climate change and depletion of the stratospheric ozone layer have required EPA to venture into the international arena, where it must represent and some instances negotiate on behalf of the United States. It is critical that the top negotiator and spokesman be a Cabinet officer—the Secretary of the Environment, placing him on the same level as Environmental Protection Ministers from the other industrialized nations.

Each year I grow more concerned about the state of the planet we will leave our grandchildren. The problems are great, but I believe our will to overcome them is even greater. The time has come to give EPA the status it needs to effectively protect the environment for future generations.

Let me again praise the authors of this legislation as well as President Bush. I look forward to the hearings on this legislation and am hopeful S. 2006 will be enacted in this session of Congress.

OPENING STATEMENT OF SENATOR LIEBERMAN

Few issues are of greater and more lasting significance today than protecting the environment—preserving a world in which our children and grandchildren can breathe the air, drink the water, and live healthy and productive lives. The fact is, the brunt of the actions we take today, or fail to take today, to protect the environment will fall not on us but on future generations. They are not here to lobby us, and it is our responsibility to act on their behalf.

Creating a Department of the Environment shows that we are prepared to take this responsibility seriously, and I commend Chairman Glenn and Senator Roth for their leadership in writing this legislation, negotiating with the administration, and bringing the bill promptly before this Committee. Although I will suggest some improvements to the bill, I am proud to be a cosponsor. EPA represents the public interest in protecting the environment, and it must be on an equal footing with the rest of the Cabinet. It is crucial to have a Secretary of the Environment in the President's Cabinet because virtually everything the government does today has some effect on the environment. We can no longer afford to make industrial policy, energy or transportation policy, without taking into account the environmental consequences.

We also must recognize the increasing importance of international environmental problems, such as global climate change. Right now, we are simply unprepared and unable to develop a coherent national policy on this issue. Nearly every Government agency seems to have some responsibility for dealing with global environmental issues, and there are half a dozen interagency groups or committees as well.

EPA is supposed to coordinate the Government's efforts, but currently it has no real authority and there is no clear government structure in place to enable it to do so.

Our bill would create one interagency committee on global environmental change, comprised of the heads of 14 federal agencies—a useful step. But it needs some improvement if we are to create an effective structure. As the bill is drafted, the President can add anyone else he wants to the committee, and more importantly, can name anyone to be chairman. Why create a Department of the Environment, whose sole responsibility is environmental policy, and then to allow the President to designate the Director of OMB or anyone else he chooses, to coordinate Federal policy on global environmental change? This is not as far-fetched as it sounds. Just this past Saturday, the Washington Post reported that the Administrator of EPA, the Secretary of State, the Secretary of Energy, and the White House Science Adviser had outlined a strong speech for the President on global warming initiatives, only to have it weakened by White House Chief of Staff John Sununu. If we do create an interagency environmental committee, we should make it plain that the President is to chair it and in his absence the Secretary of the Environment is to be the chair.

I have several other questions about provisions in the bill that perhaps could be strengthened and made more effective:

The bill would require Senate confirmation of the Secretary, Deputy Secretary, and all Assistant Secretaries, even if the nominees are officials who were previously confirmed and who have substantially the same responsibilities now. I am concerned that this time-consuming process could hinder important work underway at EPA now.

Title IV of the bill "strongly urges" the administration to take certain actions to elevate environmental concerns in international policymaking, such as convening international meetings in the U.S. on energy efficiency and global climate change. Will this language be interpreted as a strong expression of congressional conviction or as a public statement that the administration is not required to take the actions recommended?

The bill also creates a Commission on Improving Environmental Protection to review and recommend improvements in environmental laws. I am worried that the Congress and the Secretary of the Environment, who is to be merely an ex-officio, nonvoting member of the Commission, may not have an adequate role in the critical work of such a Commission.

These concerns do not dampen my enthusiasm for this legislation. The bill is a good one; perhaps it can be made better. I look forward to hearing the testimony of the witnesses and to working with the Chairman and the rest of the Committee on the bill. I am committed to seeing a Department of the Environment created, and I anticipate the day very soon when Mr. Reilly can appear before this Committee and be addressed as Mr. Secretary.

OPENING STATEMENT OF SENATOR WILSON

Mr. Chairman, thank you. I greatly appreciate all of your efforts—and those of the Ranking Member—in bringing forth this outstanding legislation (S. 2006), which I am proud to cosponsor, before the Committee this week for hearings so soon after having introduced it.

A great deal of credit must go to you for pursuing S. 2006 with dispatch and bipartisan support. The President's recent endorsement of the elevation of the Environmental Protection Agency to a cabinet-level position sets the stage for accelerated enactment of the legislation now before the Committee.

In the 20 years since its creation in 1970, the EPA has proven its value in helping to improve the environment in which we live. EPA's strong environmental management has benefitted the lives of essentially every American. I believe we are only just beginning to recognize fully the important role EPA can play in air and water quality issues, solid waste management, toxics and hazardous waste control, pesticides, and a wide array of other issues. It is therefore appropriate to recognize this Agency's importance by elevating it to the President's Cabinet. This reorganization to Cabinet status allows an organized and efficient transition for the agency from a longstanding regulatory agency to a new coordinated environmental department.

People want good government and good government organization—government that is streamlined to provide the most efficient and effective environmental management.

Our national parks, wildlife refuges, forests, wilderness areas, and other resources of historic, cultural, and ecological significance are represented in the President's Cabinet through the Departments of the Interior and Agriculture. Yet, there are a number of other important environmental issues that are not represented at this level. A Department of the Environment would elevate such issues to the Cabinet-level status that is desired to ensure even greater environmental and health protection for Americans.

The environment is everyone's responsibility, but decisions involving it are not delegable. The Chief Executive must be provided with the opportunity to make proper decisions about the environment. With EPA at the Cabinet table, the President will have direct, hands-on interaction with all important environmental decisions for the country, and will be able to interrelate them with other national priorities. Similarly, I also have urged such a reform in my State of California that would establish a "Cal-EPA" to ensure the safety of all Californians from hazardous wastes, pesticides, and other health-threatening pollutants.

The EPA is lucky to have at its helm an internationally recognized environmentalist and conservationist, Mr. William K. Reilly. He has spent his career advocating sound environmental management for this country and the world. His positions as Director of the Conservation Foundation and the World Wildlife Fund, as well as his background as an environmental attorney with the President's Council on Environmental Quality in the early seventies, attest to his skill and dedication.

Administrator Reilly is moving aggressively to take on the many important environmental challenges to the Federal Government. S. 2006, as introduced by the Chairman, our Ranking Member, and others of this Committee, including myself, will provide an even greater leadership role for the Secretary of the Environment.

It makes sense from an efficiency standpoint to upgrade the EPA from its independent agency status to a cabinet post within the Federal Government. The President and the American public want the Federal Government to recognize the protection of our environment as a major government focus. But unfortunately, the EPA currently must work on its environmental agenda with the President indirectly through the Office and Management and Budget. With the EPA represented at Cabinet sessions, environmental concerns will come directly to the President's immediate attention. It will enable President Bush to provide the hands-on leadership he promises, and, I sincerely believe he wants, to lead our Nation on critical environmental issues.

EPA's realm not only covers environmental concerns of the nation, but its areas of responsibility also have an international dimension. From ozone depletion and climate change, to ecology concerns such as the demise of elephant populations in Africa, and the loss—worldwide—of tropical rain forests, the EPA has demonstrated its ability to protect the global environment. Improving our global environment necessitates a better scientific understanding of these and other environmental concerns. This can best be achieved through a coordinated approach that draws upon the resources of many federal agencies. EPA at a Cabinet level will achieve this goal not only by its reorganization, but also through the creation of a formal Interagency Committee on Global Environmental Change.

In essence, EPA programs have implications for nearly all Federal Government agencies, and require significant interaction with those agencies where joint jurisdiction is involved. Quite simply, a Cabinet-level EPA would strengthen the Agency's bonds with other Cabinet-level Departments and provide a more integrated approach to the global environment.

I am honored, as a member of this Committee, to have the opportunity to play a part in this governmental restructuring. Representing a coastal state with a vast array of physically different environments and, most significantly, possessing an increasingly burgeoning population that will soon be thirty million in number, I and my fellow Californians want the President's Cabinet to have complete environmental representation. The federal Secretary of the Environment will need to pay close attention to air and water quality problems, the production of toxic substances, solid waste management, pesticide use, and other environmentally hazardous agents in California.

We must continue to press forward on cleaning up the damage caused in an earlier age during which we emphasized growth without adequate concern for the damage being done to our long-term future. Moreover, we must identify ways to avoid repeating our mistakes, or making new ones, as we try to maintain our world leadership in manufacturing, agriculture, high-technology, and other fields.

The elevation of the EPA to a place within the President's Cabinet will serve to advance our ability to better tackle many of today's and tomorrow's environmental problems.

Mr. Chairman, if the alacrity with which you have brought about this week's hearings is any indication of the speed that we can expect for moving this bill to the Senate floor for consideration, I have no doubt that we will be able to meet the

Earth Day 1990 goal for enactment of this legislation. Thank you again for your support, and that of the Ranking Member's.

OPENING STATEMENT OF SENATOR ROTH

Senator ROTH. Mr. Chairman, I am happy to join you in this initiative to create a Department of the Environment. I think such a department is extremely important for many reasons, but let me outline only three.

The American people are not satisfied, in my judgment, with the progress that has been made to date with regard to the environment. The creation of a department will focus the environmental voice at the highest level of Government and the Secretary will, of course, automatically be involved in Cabinet discussions involving matters that directly or indirectly impact on the environment. And I think that is a most important factor, Mr. Chairman.

One of the problems in arriving at sound decisions on the environment is the lack of reliable statistics. Advocates on every side of environmental issues too often cite figures that, frankly, tend only to muddy the water. Our legislation creates a Bureau of Environmental Statistics that will hopefully develop a reputation of integrity, like the Bureau of Labor Statistics, and give us a point of reference from which to design meaningful environmental reforms.

And finally, Mr. Chairman, I hope the cabinet status will give our environmental Secretary the voice and means of becoming a strong environmental advocate on the international scene. Efforts to clean up the global environment are meaningless if not international. No country should have a competitive advantage because it permits environmentally dirty business. It is not fair to our workers, it is not fair to world competition, and it is not fair to the environment.

Thank you, Mr. Chairman.

[The prepared statement of Senator Roth follows:]

PREPARED STATEMENT OF SENATOR ROTH

Thank you, Mr. Chairman. You and I put many months of effort into "The Department of the Environment Act", and so I am pleased that the Committee is holding these hearings just 2 weeks after we introduced the bill on the Senate floor. Over the next 3 days we will consider what I feel is a very prudent piece of bipartisan legislation.

I believe Thomas Jefferson once said that, "the basis of our government [is] the opinion of the people." Few would argue that issues concerning the environment have come to the forefront of the public's mind, and the creation of a Department of the Environment would reflect this level of concern in the Federal Government's organization and structure.

I am looking forward to the testimony of today's witnesses, especially that of Bill Reilly, the Administrator of the Environmental Protection Agency. The EPA will take on an important new role as a Cabinet-level Department. In order for the Government to be a true world environmental leader, the American people themselves must be educated and energized. As Secretary of the Environment, Mr. Reilly will receive a good deal of attention as our President's representative on environmental policy matters, and he will be in a perfect position to promote environmental ideals on a large scale.

This legislation goes far beyond simply creating a pulpit from which the Secretary of the Environment can communicate with the American people—it will, in fact, enhance the Federal Government's ability to communicate within itself. More and more, environmental factors must become a part of all upper-level government policy decisions, so it is essential that the EPA receive Department-level clout. During Cabinet meetings, the Secretary of the Environment should be sitting at the table to offer input on issues ranging from the treatment of waste at our Nation's nuclear facilities to an upcoming summit meeting with a foreign head of state.

This bill will not only give greater meaning to our environmental fortitude here at home, but it will also make us more effective and respectable on a global scale. The Secretary of the Environment will be able to meet with other foreign ministers of the environment as an equal—this is necessary if the United States is to be a leader in responding to the threats of global environmental change through international treaties and agreements. At an international level, the Department of the Environment will ensure that our economic advances do not become environmental setbacks. No country should enjoy a competitive edge because it is willing to conduct an environmentally dirty business.

In considering the reorganization of the EPA, we have built in needed administrative changes to allow for more efficient and effective use of resources within the new Department. For example, at the Assistant Secretary level, this bill calls for a Chief Financial Officer and an Information Resources Management Officer to coordinate the finances and information within the new Department. Furthermore, this bill would establish a Bureau of Environmental Statistics within the Department to develop and maintain comprehensive environmental data. The statistics generated by this Bureau will be a constant point of reference for all who work to protect the environment. These internal controls will ensure that the Department of the Environment competently fulfills its obligation to the American people, and their success will point the way toward more responsible management throughout the rest of the Executive branch.

This Congress and this President have long-expressed a commitment to preserving the Earth's environment. By creating a Department of the Environment, we will be able to put greater focus on all our good intentions. The new Department will establish our environmental priorities, pool our resources, and represent the United States in its efforts to achieve a cleaner world.

Again, Mr. Chairman, thank you for holding these hearings, and I look forward to today's testimony.

Chairman GLENN. Thank you. We have two Senators with us this morning, and a Member of Congress. We will have their testimony. But first, Senator Stevens, do you have an opening statement?

Senator STEVENS. Mr. Chairman, I am happy to be here. I am a little late. I don't want to hold up our colleagues, but I would ask that my statement be placed in the record.

Chairman GLENN. Without objection, it will be entered in its entirety.

[The statement of Senator Stevens follows:]

OPENING STATEMENT OF SENATOR STEVENS

Mr. Chairman, let me first of all state that I favor the elevation of the EPA to Cabinet status. Having acknowledged that fact, however, I must admit to some concerns regarding the specific proposal before us today.

In reviewing the history of EPA, one can readily discern the growth in scope from an essentially regulatory agency to an agency involved in a wide variety of research and international environmental activities, risk assessment, and technical assistance to states, municipalities, other Federal offices and the public. These expanded responsibilities would indicate that a higher level of visibility within the administration is both necessary and prudent.

Although it is my understanding that Mr. Reilly has enjoyed excellent access to the President, there is no guarantee that such a situation will always exist in the future under a different President or with a different Administrator at EPA. Elevation will insure the visibility and access required to keep environmental issues at the forefront of all future administrations.

Additionally, in a world community concerned with the problems of acid rain, the breakdown of the ozone layer, and the depletion of tropical rain forests, we must participate on the international stage to ensure that a habitable planet exists for our children and grandchildren. Creation of a Cabinet-level Department of Environmental Protection will provide the head of that Department with the prestige to act effectively on that stage.

My concerns are not of great magnitude, but focus more on those elements in this bill which I believe will be confusing. For example, in this era of alphabet soup, do we really need another Executive Department with the designation "DOE"? What is it—Education, Energy, or Environment?

Also, I would like to know what the plans are for some of the other agencies currently involved in environmental issues, such as the National Oceanic and Atmospheric Administration [NOAA] and the White House Office on Environmental Quality? Will these agencies be folded into the newly created Department or will they retain their own charters? If they remain independent, what will be their relationship to a new Department of Environmental Protection? What will be the new Department's relationship to other Cabinet-level Departments, especially those which currently have environmental issues as part of their responsibility?

As I said at the beginning of this statement, I favor creation of a Cabinet-level Department to address environmental issues. The time is right and the concerns are significant. I merely want to be sure that the Department we create is identifiable and has a clear picture of its role in the overall scheme of things.

Thank you, Mr. Chairman.

Senator STEVENS. Have we put a copy of this bill in the record?

Chairman GLENN. No, we haven't submitted it. It has been printed and distributed.

Senator STEVENS. I think it would be nice to have the bill itself in the record.

Chairman GLENN. Fine. Without objection, the bill will be included in its entirety in the record.[1]

Senator Lautenberg.

Senator LAUTENBERG. Mr. Chairman, I defer my opportunity to make the first statement to the originator of this bill, my colleague Senator Durenberger if that is all right.

Chairman GLENN. All right. Senator Durenberger.

TESTIMONY OF HON. DAVE DURENBERGER, U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator DURENBERGER. Thank you, Mr. Chairman, and I thank my colleague from New Jersey as well.

I must say before I begin, the Chairman's comments about statistics and his reference to the fact that there are an awful lot of experts on every side, you ought to come and help us try to negotiate with the administration right now on the clean air bill. I have never seen so many experts, especially on the subject of air toxins, and after listening to a lot of them argue with us, I cannot understand why anybody ever left Bhopal after the word got out. Apparently there just isn't any problem.

Chairman GLENN. I heard the expert defined once as "X is a has-been and a spurt is a little drip under pressure."

Senator DURENBERGER. Well, I hope with a bureau you are going to be able to corral some of them.

Mr. Chairman and members of the Committee, on June 28, 1988, over 18 months ago, I introduced the first bill to create the Department of Environmental Protection. I reintroduced that bill as S. 276 again on the first day of the last session, January 25, 1989.

Between those two periods of time the Chair of this Committee and the Ranking Member of this Committee have been very deeply involved with all of us, with the ranking Republican on the Environment and Public Works Committee, John Chafee, with my colleague from New Jersey, Frank Lautenberg, in working on the merits of the bill and also on bringing this whole matter to the convincing attention of the President of the United States. I think we all felt that it was only a matter of time before the environmental President agreed with us that there ought to be a Cabinet-level Department.

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[1] See p. 123.

One year to the day after I reintroduced the bill the President did endorse the elevation of EPA to Cabinet status, and it was a good day for all of us who believe it essential to put the Administrator of EPA at the same table with the Secretaries of State, Energy, Defense, Interior, and Veteran's Affairs.

As a former member of this Committee, I must acknowledge that the Chairman's bill and the Ranking Member's bill is essential to getting this cabinet position created, and I think it is terrific that you have made a commitment on this Committee to try to get this passed out just as quickly as possible.

As others have said, elevation to cabinet status is important for a lot of reasons, but the three that I am going to mention today I think are the most important. The first is the relationship between the President of the United States and the head of our Federal agency for environmental protection. Under the existing structure that relationship is not structurally close. Fortunately, this President and this Administrator, Bill Reilly, and to their credit, have a strong personal relationship. I think it is has been forged by a strong bond they both share to protect the environment, and the fact that the clean air negotiations began between the administration and the Environment and Public Works Committee 8 months ago shows this.

But institutionally the relationship is not close. The head of EPA does not have direct or frequent access to the President, nor is EPA involved in Cabinet decisions which set the broad policies for our Nation. Yesterday's controversy over the President's global warming speech indicates how important the Department of Environmental Protection is to determining national policy. And I might say parenthetically that the fact that just in the last few weeks there has been a concentration of other administration viewpoints on clean air drives home the fact that despite the close personal relationship that the present administrator has with the President of the United States, it is very difficult for him to speak for the Administration. He could if he were a member of the Cabinet.

My second point is the relationship between the environmental agency and the other cabinet departments. Some of our worst polluters we now know are Federal agencies. We have huge problems with hazardous waste sites at Defense and Energy facilities. Somebody has called it a $50 billion problem. EPA needs to be on equal footing with the department as the clean-up efforts at Federal facilities are designed and carried out.

The third is the environmental aspect of international relations. We will see more agreements like the Montreal Protocol to protect the ozone layer and reflect an international commitment to solve global environmental problems. Many of the problems—air pollution, global warming, and marine pollution—can only be dealt with in an international context.

So, Mr. Chairman, the idea before this Committee is not new. I introduced a bill 2 years ago, but I did not create the idea. We have talked about this since President Nixon created the Agency in

1970. After all this time and all of the hard work and all of the committed people that have come into this Government as Administrators of EPA, and especially given the quality and the commitment of the current Administrator, I think it is now clear the people of this country, the President of this country, and a vast majority of the Members of the Congress and the Senate want a Department of Environmental Protection.

Therefore, my colleagues and I on the Environment and Public Works Committee, the Committee with jurisdiction over EPA, are eager to work with you, Mr. Chairman, and the Ranking Member and the other members of this Committee, to get that job done. Thank you, very much.

Chairman GLENN. Thank you, Senator Durenberger.

Senator Lautenberg.

TESTIMONY OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator LAUTENBERG. Thank you very much, Mr. Chairman and members of the Committee. I thank you for the chance to testify in support of the elevation of the environmental function to Cabinet status.

Senator Durenberger and I introduced S. 276 last year, which also would convert EPA into Cabinet-level Department. Mr. Chairman, we face no greater challenge over the next few years than in restoring the integrity of our environment. We learned from data gathered under the Superfund law that each year 22.5 billion pounds of toxic materials were discharged into the air and the water and discharged on our lands, and it was shocking news for us. Nevertheless, we all suspected it, and if you just ask the American people what they think one of their major concerns for our Government is, they will tell you that it is the environment. It gets a lot more attention than many other Departments within the Cabinet.

The environment is under assault. In my State alone 42 million pounds of toxic chemicals go into our air each year, and 55 million into the water, and 5 million pounds under the land. Unfortunately, we must recognize that each of us produces 1,300 pounds of garbage a year. It is not a very pleasant prospect but it is the truth, and it includes all kinds of items that we constantly deal with.

Our climatic system has been weakened by the cutting down of forests, by burning fossil fuels, and by the releases of other greenhouse gases. The climate seems to be changing faster than at any other time in human history, and the globe appears to be getting warmer.

Mr. Chairman, I was struck by your observation of what happens at 40,000 feet. It is a statistic that Senator Durenberger and I will remember. In our business we learn something each day. To be able to be above 80 percent of the Earth's atmosphere is quite startling, and it reminds you about what a small part of the entire world we are. So we have to pay attention to that fragile piece that we occupy.

As Americans we contribute more per person to the depletion of the ozone layer than any other people on Earth, and the planet will not take it any more, not without a fight, not without protest. The challenge goes right to the future health of our planet, to our natural resources, the building blocks of our ecology and our environment, the basic essentials of nature that provide our sustenance. It goes right to our ability to survive as a modern society. And it goes to the question of whether or not we will leave generations that follow a habitable Earth.

Few challenges are more important than the protection of our environment, and today each one of us must be environmentalists. The Government needs to give to the environment the status it deserves. The EPA should be a Cabinet-level Department. Administrator Reilly has done a good job in trying to put forward a clean environment program, but he doesn't have the muscle necessary to get that job done, and we think that we ought to give him the tools to do it.

Elevating EPA to Cabinet-level status would serve two important functions. First, it would demonstrate a new commitment to protect the environment. It would tell the people in our country and other nations that the United States puts a high priority on preserving the environment and enhancing the public health and welfare.

Second, it would help, as I said earlier, EPA to do its job, and EPA needs all the help it can get. During the last administration we saw case after case of OMB running rampant over EPA. OMB proposed cuts for the sewage treatment program, one of the most successful environmental programs we have ever had. It refused to let EPA play a role in the clean air debate, and EPA regulations were routinely delayed and reversed. OMB is a heavy weight fighter, and we need to give the Administrator the ability to get into the same ring with OMB without constantly being knocked out.

Making EPA a Cabinet-level Department would give it increased clout in obtaining necessary funding, working with other departments whose actions affect the environment, making national policy decisions and dealing with other nations who send cabinet-level ministers to international meetings to discuss environmental issues.

We can meet the environmental challenges we face, but it is not going to be easy, and making EPA a Cabinet-level Department in and of itself is not enough. We need more funding, tougher enforcement and strong leadership. Making EPA Cabinet level is no substitute for strong environmental policies. But as we accelerate our efforts to meet the environmental challenges of the future, I believe that creation of a Department of Environmental Protection is one action that we must take.

I do have some concerns about functions which the bill takes from the CEQ, the Council on Environmental Quality, and gives to the new Department of the Environment. As Chairman of the Subcommittee which has jurisdiction over the CEQ, I know that we need a strong CEQ as well as a strong EPA. The President has made a commitment to reinvigorate the Council on Environmental Quality, and as a former CEQ employee, Bill Reilly would be the first, I believe, to agree with the need to reinvigorate CEQ.

I want to emphasize the important role that CEQ can play in coordinating environmental policy and advising the President on these critical issues. Mr. Chairman, I look forward to working with you and your Committee to resolve these issues and, Senator Glenn, I commend you for introducing the legislation and for scheduling these hearings, and I urge you to act favorably on S. 2006.

Chairman GLENN. Thank you, Senator Lautenberg. With us also this morning is Congressman Jim Saxton of New Jersey who has a bill that also involves some of the environmental concerns that he has followed for some time in the House. We are glad to have you with us, Jim.

TESTIMONY OF HON. JIM SAXTON, U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. SAXTON. Thank you, Mr. Chairman. I appreciate very much the opportunity to be here. Let me say at the outset, Mr. Chairman, as I listened to you articulate your concerns about the issues that have to do with our environment, I couldn't help but think to myself that I am certainly glad you are the Chairman of this Committee and able to articulate as well as you did the concerns that you have that I am sure are shared by members of the panel and Americans generally.

I can't think of anything that is more important to us as citizens of this country and as citizens in this world than to be concerned today about the environment. And I'm here, frankly, to endorse your bill and to endorse the efforts that you are making to have the EPA elevated to cabinet-level status.

I would like to say, Mr. Chairman, that, along the same line, that while we are doing this I wanted to take the opportunity this morning to at least have a discussion with you and share with you some of the ideas that I have had and something that I have been working diligently to promote, something that I think it needed and goes hand in hand with what it is your bill is all about.

Over 100 years ago, Mr. Chairman, the Congress of the United States decided that we had a national problem and that it needed to be addressed. And at that time we established, because of the need, a research institute to look into various aspects of diseases that were affecting the American people. And 103 years ago, in 1887, we established the National Institutes of Health as a research organization to help to solve many of the problems that have to do with the health of individuals in our country. And I want to discuss today perhaps the need for a similar institution to talk about something that is making us sick, making our environment sick, affecting the health of Americans and people all around the world.

Briefly, I have introduced legislation in the House which calls for a 19 member Commission, which could be amended on to your bill, to examine and submit recommendations for designing and implementing a National Environmental Institute. It outlines the primary functions—that is, the bill does—which have been outlined in various reports from the Government, the academic community, and for independent research units. Further, it includes the need for a multiagency Bureau of Environmental Information and Statistics, much like the bureau that you have discussed.

I believe it should be included, or in cooperation with the NEI, the National Environmental Institute structure. Based on the success of the Stratton Commission, which we are all familiar with, which yielded the Coastal Zone Management Act, I concluded from my research that this subject was not something Congress should structure, itself, not without a good deal of thought and study. Rather than mandate the structure and details for such an institute, I have called on the experts within Government, academia and the environmental community, and private organizations as well, to mutually participate in making recommendations to Congress as to what a National Environment Institute ought to look like.

Last fall I had the privilege to address the Oceans 1989 Conference in Seattle. At that time I outlined an initiative for a National Environmental Institute, modeled after, as I suggested, the National Institutes of Health. I cited the need for increased participation from state and Federal agencies, from our universities and colleges, and particularly from the private sector and industry in the funding and development of sound alternatives.

Our goal, short and simple, is to implement a long-term stewardship of natural resources and global commonality. I underscored my frustration as a legislator by drawing attention to the serious absence of fire prevention strategies and the persisting array of fire fighting crisis in the management in the environmental area. The lack of long term and preventive environmental research has stifled reports from the early detection of problems, problems which may be irreversible, and problems which you, Mr. Chairman, have discussed earlier.

The latent discovery of such damage simply perpetuates our longstanding policy of crisis management when it comes to environmental matters. It diverts resources away from developing substitutes and redesigning technologies and further ingrains our reliance on regulatory strategies and what I call end-of-the-pipe controls.

I also noted the need for data management, as you have. A program capable of compiling and disseminating all environmental data that is available, and information generated inside as well as outside of Government. We have an ever expanding library and absolutely no librarians do translate and disseminate the information into something usable.

Quite frankly, Mr. Chairman, the response to my Seattle address was far more than I anticipated. I have received a ground swell of comments and suggestions and inquiries from Government agencies, people in academia, people in the environmental community, and private research institutions as well. The concept of an independent research institute—and I underscore I believe it should be independent—is mutually applauded as essential, and the model of NIH does not have to stand alone and be a unique one.

The need for a research institute was acknowledged as necessary by the Environmental Protection Agency last year when they appeared before the House Committee on Science, Space, and Technology. In addition, an effort is currently underway by an academic consortium developing a similar proposal for a National Institute of the Environment.

Data management programs have been initiated within our own Government agencies as well, such as the program outlined in the Committee on Earth Sciences, the cooperative effort representing the involvement of a number of Federal agencies and Departments such as the Department of Energy, the EPA, NOAA, and the National Science Foundation.

The academic and private sectors have also begun to launch initial efforts to coordinate and fund long-term research projects with private funding, and to share data and transfer technology. In short, Mr. Chairman, and to summarize, I am pleased that we are about to change the face of our bureaucracy and elevate the EPA to its rightful level as a cabinet level position.

I also believe—and I think most people who are close to environmental issues would agree—that the time has come to place stronger emphasis and commitment behind research and the transfer of technology from those who develop technology to the policy implementors, and an NEI can accomplish that goal. And therefore it is only proper and fitting that we give life to a National Environmental Institute which will pool all the public and private resources available to us.

Once again, Mr. Chairman, I appreciate very much the opportunity to be here and to be able to share these thoughts the you with this morning.

Chairman GLENN. Thank you very much. I have no further questions. Jim, or David?

Senator SASSER. No, Mr. Chairman, thank you.

Chairman GLENN. All right. Fine. Thank you very much.

Senator HEINZ. Mr. Chairman, I don't have a question, but I would like to ask unanimous consent that my statement appear in the record, and that I might take one minute to summarize it.

Chairman GLENN. Without objection, it is so ordered. I also have a statement from Senator Levin here and I ask unanimous consent that it be included in the record.

[The statement of Senator Levin follows:]

OPENING STATEMENT OF SENATOR LEVIN

Welcome Mr. Reilly. Your concern and willingness to engage the real issues that face our environment make you an EPA director worthy of the name "Mr. Secretary."

The bill before us to make EPA a Cabinet-level agency is a new beginning. After the last decade of environmental policy that often did worse than nothing, it is time that we renew our commitment to preserving and protecting our natural heritage.

The challenge for the EPA as the Department of the Environmental is not just to sit at the Cabinet table and make us all feel progress has been made. The challenge of a Cabinet-level department is to represent the people of the nation and prove that progress can be made.

We are making progress in Michigan and the Great Lakes, but we have a long way to go. We fight pollution everyday in the Great Lakes where 23 million people get their drinking water; we're fighting to treat our sewage without mistreating our lakes and rivers; and we're fighting to make sure that our wildlife and recreation resources are protected.

We need the assurance that EPA is going to be sitting at that Cabinet table fighting with us, on our side. We must set our sights high if we want to pass on to our children an environment cleaner than the one we inherited.

Putting EPA at the table sends a serious message to polluters. The message is this: your dirty work is more than a nuisance or an inconvenience—it's a crime—a serious crime. And my expectation for a new Department of the Environment is that it will sit equally with the Department of Justice in partnership. To go after these polluters—to prosecute them—and to make them pay for the cleanup.

In Michigan, we want a strong ally in the fight for our environment in the Executive Branch. And I expect the Department of the Environment to be that ally.

President Nixon took the first step in establishing the EPA in 1970. Though this was an important event, he merely gathered disparate programs under one roof. Further Presidential directives and Congressional mandates created a variety of regulatory philosophies and standards. As the General Accounting Office has stated, this complicates agency management and adoption of an integrated approach for dealing with environmental problems. The Commission on Improving Environmental Protection that would be established by this bill would provide invaluable advice on how to streamline EPA's overwhelming statutory burden and develop a comprehensive approach to environmental protection.

Elevation will provide EPA with the diplomatic credentials that it needs to more effectively represent the United States in the international environmental community. Increasingly, we have seen that political boundaries do not stop pollution or the effects of pollution.

The bill will also create a link in the environmental policy development chain that has long been missing. The Bureau of Environmental Statistics will provide an invaluable yardstick for determining how effective are our efforts to protect the environment. Currently, environmental quality information is collected by dozens of governmental bodies, but is not effectively analyzed in a way that is helpful to regulators or policymakers.

EPA's elevation to a Cabinet level Department of the Environment will advance EPA's mission to protect public health and the environment from unreasonable risk, and to control and abate pollution in the areas of air, water, solid waste, pesticides, radiation, and toxic substances. This elevation is a way to recognize that environmental protection is vital to our country's and the world's future.

OPENING STATEMENT OF SENATOR HEINZ

Senator HEINZ. Mr. Chairman, could I just summarize my statement, in about 60 seconds, would that be in order?

Chairman GLENN. Fine.

Senator HEINZ. Mr. Chairman, I commend you on holding these hearings and am delighted that you and Senator Roth have introduced this legislation. I earlier cosponsored Senator Durenberger's legislation to create a cabinet level EPA, and Senator Chafee introduced legislation 3 years ago to do this.

I do want to make one particular comment of pertinence, relating to my colleagues a very real situation we had in my home State of Pennsylvania. It is why I believe, Bill Reilly, a Cabinet-level EPA can literally mean the difference between health and sickness, and perhaps life and death.

My sense is, that on too many occasions the agency now finds its prerogatives given a low priority by others. In my home State of Pennsylvania, for example, the U.S. Army used a property that was later sold to the local municipality, Fairview Township in York County, to landfill a wide variety of substances, including hazardous ones. The Army failed to inform EPA, or even the local officials, of the potential danger, and for 7 years what is known as Marsh Run Park was used as a playground by some 600 kids. When EPA was finally appraised of the danger, they did not tell anybody. They withheld the information.

Now, what do I draw from that as a conclusion? Well, I can draw one of two inferences. The charitable one is that EPA was going along to get along with the Defense Department. They outnumber EPA about 100 to 1. At worst, EPA was intimidated by the Defense Department. I think equal status can prevent future Marsh runs.

Thank you, Mr. Chairman.

[The prepared statement of Senator Heinz follows:]

Prepared Statement of Senator Heinz

Mr. Chairman, I would like to thank you for holding these hearings and express my support for elevating the Environmental Protection Agency [EPA] to a Cabinet-level Department. Earlier in this Congress, I was proud to join Senator **Durenberger** as an original cosponsor of S. 276, which would also establish a Department of the Environment. I look forward to working with you and my colleagues on the Committee on reporting similar legislation during this session.

Perhaps more than any other Federal agency, EPA bears responsibility for protecting and improving the quality of life of every American citizen. Since its creation in 1970, when EPA dealt with such pressing, national issues, as raw sewage and industrial wastes in our rivers and lakes, the number and significance of environmental problems has grown significantly. EPA's domestic regulatory efforts range from controlling the content of household cleaning fluids to automobile emission standards, to chemical and powerplant waste management.

Today, we face environmental threats that we cannot see, smell, nor in some circumstances, abate or mitigate, especially without full national and international cooperation. We cannot see the depletion of the ozone layer or the build up of toxics in the food chain, for example. Yet these silent killers stalk every nation on Earth. This week, some of these same issues are at the center of the Senate's debate on clean air legislation.

On the basis of the range and complexity of these national issues alone, EPA warrants a Cabinet-level status that will place environmental concerns directly before the President of the United States.

There is also an established link between the health of our environment and the health of our citizens. An efficient, effective EPA can mean the difference between life and death. Yet the agency often finds its prerogatives given a low priority by others. In my home state of Pennsylvania, for example, the Army used property it later sold to Fairview Township in York County to landfill a wide variety of substances—including hazardous ones. The Army failed to inform the EPA or local officials of the potential danger, and for 7 years Marsh Run Park was used by 600 children as a soccer field. When EPA finally was appraised of the danger, they withheld the information from the public.

It is hard to avoid drawing the inference that EPA was at best going along to get along with the Secretary of Defense, and at worst, intimidated by the cabinet ranked department. Equal status could prevent future Marsh Runs.

In addition to elevating the EPA to a Cabinet-level Department, the legislation we are considering today, S. 2006 takes some other very important steps in improving this Nation's environmental policy. The creation of a Bureau of Environmental Statistics will ensure we have comprehensive and accurate data upon which to base our national environmental strategy. It is also important to have in place the necessary financial controls to ensure responsible financial management. S. 2006 addresses this concern by establishing within the Department of the Environment a chief financial officer.

Mr. Chairman, I look forward to working with you and this Committee to make EPA a Cabinet-level Department and to ensure environmental issues are placed directly before the President and receive the priority policy position they deserve.

Chairman **Glenn**. Thank you. Senator Sasser.

Senator **Sasser**. Thank you very much, Mr. Chairman. I also have a statement which I would like to have inserted in the record.

Chairman **Glenn**. Without objection, it will be included.

OPENING STATEMENT OF SENATOR SASSER

Senator **Sasser**. Just let me say this, I want to commend and congratulate you, Mr. Chairman, and Senator Roth, for seeking to elevate the Environmental Protection Agency to cabinet status. I support your endeavor and I think it is most worthwhile. We see now that environmental problems have reached truly a global dimension. They are being talked about at the very highest international levels, and frankly I believe, Mr. Chairman, that we are at a crossroads for planning for the future of our planet.

I have been concerned that our Government here is conducting itself in what I would characterize as a reactionary way, that is reacting to the problems after they are already created. And I would like to see us moving out in a preventive way in order to prevent environmental problems from developing. So I look forward to supporting your legislation and supporting the elevation of Mr. Reilly to be the first Secretary of the new Department of the Environment.

[The prepared statement of Senator Sasser follows:]

PREPARED STATEMENT OF SENATOR SASSER

Thank you, Mr. Chairman. I want to commend you for calling these hearings to review elevation of the Environmental Protection Agency to Cabinet status and moving forward so quickly on the legislation which you and Senator Roth recently introduced. I am pleased to be a cosponsor of the bill and I expect it will receive a great deal of support.

I am glad that Bill Reilly has joined us today to focus on raising the EPA to the Cabinet level. Growing environmental problems and the global dimensions of the concerns I believe constitute the need for a Department of the Environment. It is my hope that this effort will bring more recognition to those policies called for in the National Environmental Policy Act and greater enforcement of environmental regulations around the country.

Many believe that we are at a crossroads in planning for the future of the planet. Concern over pollution of the air, land, and water has moved environmental matters into the mainstream of public policy. Unfortunately, like many issues on the popular agendas, the Government is responding in reactionary fashion to a problem which already exists. In most areas we are working to clean up the mess, not prevent it from occuring.

This is one area in which I would like to see a Department of the Environment become a leader—preventative action. This will call for the implementation of more long range planning and a better understanding of ecological systems. As well, we must work to prevent pollution on the front end when we consider development. I believe a Department of the Environment can play this "watchdog" role, one which the EPA already does to some extent.

I will end today by charging Mr. Reilly with this goal. A Department of the Environment will be in a position to establish policy which can prevent many of the ecological problems which we are currently facing. We have often shown that we can address environmental problems after the fact, now we must prove that we can prevent the problems from occurring at the source.

Thank you again, Mr. Chairman. I have several questions which I will submit for the record.

Chairman GLENN. Thank you very much. Senator Pryor.

OPENING STATEMENT OF SENATOR PRYOR

Senator PRYOR. Mr. Chairman, I will try to keep my statement brief. I would like to also compliment you and Senator Roth for seeking a higher priority for our environment, for the protection of our environment.

I do think though, Mr. Chairman, and I don't want to rain on the parade this morning, but I do think that if a taxpayer, or if the taxpayers are going to pay for a new chair at the cabinet table, I think the taxpayers deserve to know who is going to be sitting in that chair and who is going to be doing the basic work of this new department we are about to elevate.

I think the basic question is, are we going to continue seeing that these basic functions of the Environmental Protection Agency are performed by Federal employees or by an invisible bureaucracy that we do not know. I have found that EPA today is spending hundreds of millions of dollars on a private work force to write and to enforce our environmental regulations, prepare official plans and reports to the Congress and to the public, write congressional testimony and even, Mr. Chairman, to hire contractors to prepare the rules under which EPA hires contractors.

Furthermore, EPA has informed me that these contractors and these consultants work for the very companies regulated by EPA. Let's just look at one, ICF, Kaiser Engineers. This is their client list: Ashland Chemical, Cedar Chemical, Chemical Waste Management, Chevron, Dow, Monsanto, Texaco, and Union Carbide. It is this same company, the same group of consultants, Mr. Chairman, that wrote these regulations that appeared in last year's July 20 Federal Register.

I would like to know what potential conflicts there are there in this area. I think it is of grave concern. The EPA not only allows contractors to draft regulations, it has turned its letterhead over to numerous companies to allow them to write decisions, and to enforce policies of EPA. The consultants have drafted internal memos that appear to come from the highest levels of EPA officials.

The GAO issued a report last year that criticized EPA's management practices. What did the EPA do? They paid a consultant $20,000—I have a copy of this contract—to draft a response to the General Accounting Office. When I discovered that EPA was using a contractor to interpret regulations to the public on the Superfund Hot Line, Mr. Chairman, I asked GAO to look into this practice. The GAO decision, which I hope will be placed in the record at the appropriate point, concluded that it is inappropriate for contractors to interpret regulations. However, it is still an ongoing practice for the EPA to use contractors in this way.

While the criticism is limited to one EPA activity, I think there are many other examples where EPA could be subject to the same criticism. Mr. Chairman, my fear is that elevating EPA to cabinet status is merely window dressing unless we look at the real fundamentals of how EPA is functioning today and what must improve before they become a Cabinet-level body.

The entire Government, I think, shares many of these same problems, but I think that EPA today is one of the most guilty in abdicating some of the most sensitive work, very highly sensitive work, to private consultants than any other agency in our Federal spectrum.

The primary mission of EPA is writing regulations, and that has been largely relinquished to private consultants and contracting firms, which in many instances, in my own opinion, have another interest at heart.

I think before we elevate this agency, Mr. Chairman, to cabinet position there are some questions. Can EPA officials assure the public that officials, not contractors, are performing the Agency's most sensitive work? I think we need to know the answer to the question when EPA, itself, acknowledges to me and to us in this Committee that most of its contractors simultaneously offer their services to the clients regulated by EPA. I think this is a major problem, a major hurdle that we must pass before we get to whether or not we are going to elevate it.

I think, too, that EPA has the obligation to tell this Committee and the Congress who the contractors are they are hiring and what other interests they are representing.

I think we need to know what checks and balances EPA is going to institute, and before I vote for Cabinet-level status, Mr. Chairman, I will certainly ask those questions.

Thank you, Mr. Chairman.

[The prepared statement of Senator Pryor follows:]

PREPARED STATEMENT OF SENATOR PRYOR

Mr. Chairman, I want to commend you for seeking to place a higher priority on protecting our environment. However, I think that if the taxpayer is going to pay for a new chair at the Cabinet table, the taxpayer should know who will be sitting in it. My ongoing investigation has shown that the basic work of EPA is being performed not by Federal employees but by an invisible bureaucracy of contractors and consultants.

I have found that EPA spends hundreds of millions on a private workforce to write and enforce our environmental regulations; prepare official plans and reports to Congress and the public; write congressional testimony; and even prepare the rules under which EPA uses contractors. Furthermore, EPA has informed me that these contractors and consultants work for the very companies regulated by EPA.

Mr. Chairman, let me cite just a few examples that greatly concern me. First, EPA not only allows contractors to draft its regulations, it has turned its letterhead over to them to prepare decisions on enforcement matters. Second, consultants have drafted internal memos that appear to come from the highest level EPA officials. Finally, showing just how complete EPA's dependency on consultants is, when the GAO issued a report last year that criticized EPA's management practices, EPA paid a consultant $20,000 to draft the response to GAO's criticisms.

When I discovered that EPA was using a contractor to interpret regulations to the public on the Superfund Hotline, I asked GAO to look into that. Mr. Chairman, I ask that the GAO opinion be placed in the hearing record. GAO concluded that it is inappropriate for contractors to interpret regulations. While that criticism was limited to one EPA activity, there are dozens of other examples where EPA could be subject to the same criticism. If we do not address this glaring problem, Cabinet status will simply be window dressing and we will not be helping to improve the environmental at all.

While the entire Government shares many of these same problems, I think the EPA has abdicated more of its sensitive work to private consultants than any other agency. The primary mission of EPA is writing regulations and that has been relinquished to private consultants. I think before we elevate this agency to Cabinet level, we owe it to the taxpayers to receive answers to some basic questions:

Can EPA officials assure the public that officials, and not contractors, are performing the Agency's most sensitive work?

When EPA itself acknowledges to me that most of its contractors simultaneously offer their services to clients regulated by EPA, how can EPA assure the Congress that our environmental policies are not tainted by conflicts of interest?

What steps must be taken by the Congress and OMB to ensure that the Secretary of the Department of the Environment will not merely rubberstamp policies or decisions that come to him from a private contractor?

Mr. Chairman, we all believe in the need for a strong defense, just as we believe in the need to protect the environment. However, the excesses of the military-industrial complex should give us pause before we create an environmental-industrial complex. I look forward to hearing our witnesses today and working with you on this legislation.

Chairman GLENN. Thank you. Mr. Reilly, that gives you a few things to get your teeth into this morning.

Our first witness is the Honorable William K. Reilly, Administrator of EPA, the Environmental Protection Agency. We welcome you. I understand you are accompanied by Mr. Henry Habicht, Deputy Administrator, Environmental Protection Agency, if you wish to come to the table also.

Mr. Reilly, we look forward to your statement.

TESTIMONY OF WILLIAM K. REILLY, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY,[1] ACCOMPANIED BY F. HENRY HABICHT II, DEPUTY ADMINISTRATOR

Mr. REILLY. Thank you very much, Mr. Chairman and members of the Committee. I am very pleased to testify before you today in support of Senate bill 2006 which would create a Cabinet-level Department of the Environment.

I am particularly pleased to follow Senators Lautenberg and Durenberger, and Congressman Saxton to this table. Senator Durenberger was, as mentioned, one of the early sponsors, along with Senator Chafee, of a legislative initiative to create cabinet status for the Environmental Protection Agency.

In his eloquent State of the Union address last week, President Bush reiterated his support for this legislative initiative. His endorsement reflects his administration's commitment to the American people that the environment has moved from the margins to the mainstream in our government's policies and decisions. The bipartisan nature of the proposal before you clearly affirms the broad support and the united will of the American people on the significance of environmental issues. And I congratulate you, Mr. Chairman, Senator Roth, and the other members of the Committee for your joint sponsorship of this legislation.

With your permission, sir, I ask that my written statement be inserted in the record. I will summarize just a few points here now, some of which I think have been nicely addressed by witnesses and Senators before me. The President, in announcing his support in the cabinet room in the presence of you and your colleagues, made specific mention of the international significance of elevating EPA. He described the fact that we are more than ever before engaged in conversations with other countries on issues of technical assistance, bilateral assistance, international environmental agreements, and global environmental management.

Last March, I led a delegation to London to attend a conference sponsored by the British Government on protecting the ozone layer. Later in the year I led a delegation to the Netherlands, to Nordvig, on global climate change. At each of those meetings, which were ministerial meetings, most, if not all, of the countries represented were represented by Cabinet officers. The perception that the U.S. Environmental Protection Agency is not headed by a Cabinet officer I think strikes many other governments as odd and anomalous and difficult to understand, particularly now as we have these interactions on such fundamental important issues.

In terms of domestic interaction, the Environmental Protection Agency traditionally, and I think now perhaps more than ever, finds itself working with other agencies. EPA affects their jurisdictions, and is involved with their programs, whether the issues involve Energy and Defense facilities, or water contracts, or food safety and pesticides, or the farm bill, or clean air which tends to cut across the whole spectrum of Government activities. In all of these areas we find ourselves negotiating with, collaborating with, sometimes arguing with other agencies of the Federal establishment. I think that cabinet status cannot but help strengthen the recognition for the brief we carry to those negotiations.

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[1] See p. 157 for Mr. Reilly's prepared statement.

Scientific research is the basis, really, for the integrity of our regulatory activities at EPA, and I am particularly pleased to see in this legislation a proposal to establish a center for environmental statistics. I think that this center or bureau can make a vital contribution to the development of data and information, to its analysis, and to reporting it systematically. In a nonpartisan, independent way this will put a floor under the great debates on the very many complex issues that we address, including in particular, the degree to which the laws that the country has invested so many resources and hopes in, are in fact doing the job that they are crafted to do. That is a measure that has our particular interest and support. Through the budget process and in other areas of activity, my deputy, Hank Habicht, and I have tried to strengthen scientific research and particularly the development of data.

One of my predecessors remarked to me once that cabinet status is needed to ensure that your calls get returned. Well, let me say that my calls do get returned in this administration, but they get returned really because the President has made clear that he values the environment and the Environmental Protection Agency, and that he takes us very seriously indeed. He chose to announce my appointment at the same time that he announced four other cabinet officers' appointments. He is the first President ever to have visited the Environmental Protection Agency, which he did to swear me in. A few weeks after his visit, the Vice President visited our offices, and later the Attorney General in a joint announcement on enforcement—all of these unprecedented at EPA.

The President has had me accompany him on three international trips, again something that is without precedent, to Italy, to the Netherlands, and then to France last summer for the economic summit—the 15th economic summit held among the seven major industrial nations. Following my return from the economic summit and while I was testifying before the Foreign Affairs Committee, Senator Sarbanes asked the question, "How many of the other six governments represented at that summit do not have their environment minister in their cabinet?"

I was able to answer that, "Well, none of them, but I was the only one who was at the summit."

It was the first time an environment minister has ever been invited to an economic summit, which heretofore had been reserved for Secretaries of the Treasury and Secretaries of State. Senator Sarbanes then said, "But wouldn't it be nicer to be both at the summit and in the Cabinet?"

And the answer that I would give you today is an enthusiastic yes.

So we support this legislation with great enthusiasm. We want to work with you in the Committee to ensure that we bring EPA into the Cabinet on the 20th anniversary of Earth Day on April 22nd, as the President desires. That I think would be about as felicitous a possibility as I can imagine, with the exception, perhaps, of having also on his desk at that time a new Clean Air Act.

Thank you, sir.

Chairman GLENN. Thank you very much. Mr. Habicht, do you have any additional comments you wish to make?

Mr. HABICHT. No, I don't. Thank you, Mr. Chairman.

Chairman GLENN. Thank you. We will go with 5-minute questioning this morning here since we have several people.

The first question I have, Mr. Reilly, has to do with a report in last Saturday's Washington Post about White House Chief of Staff John Sununu's editing of a speech the President gave yesterday to the IPCC. The article states that major revisions were ordered in that speech because the Chief of Staff disagreed with the policy approach that it presented on global warming. It goes on to state that it was not the first time that you had, in effect, been rebuffed in the effort to get the United States to take a lead at the IPCC meetings. Another article suggests that Mr. Sununu may have weighed in against the implementation of a landmark wetlands agreement between EPA and the Corps of Engineers.

On some of the Sunday shows Mr. Sununu indicated he had made some revisions in the speech that reflected the President's policy views.

Did you agree with the changes made by Mr. Sununu?

Mr. REILLY. I thought the speech delivered yesterday responded very well to the major problems that we have with the IPCC. The President, I think, made a very important symbolic statement in appearing, the first head of Government who has appeared before the Intergovernmental Panel on Climate Change.

The plenary session met here at the invitation of the President. He has made clear in the past, as he did again yesterday, that he supports the development of a treaty, a framework convention on climate change which presumably is going to be proposed by the IPCC. I think he has consistently shown his support both for this issue, and for the effort of the major entity that is asking the key questions about climate change—the forum for cooperating with other nations in addressing climate change. The President's speech yesterday reaffirmed that.

Chairman GLENN. The implication of the news reports, though, is that it would have been an even stronger statement. Did you disagree with the weakening—if that report is correct—did you disagree with the changes that were made?

Mr. REILLY. I don't have any knowledge, other than what the governor said on television, of what role he may have played in developing the speech. I can only say that I thought the speech that was delivered was first rate.

Chairman GLENN. Well, did you have input into the original speech?

Mr. REILLY. Yes, sir, I did.

Chairman GLENN. Was it changed?

Mr. REILLY. I didn't write the speech. I made suggestions, as a number of members of the Government did. And I would say that two-thirds to three-quarters of those suggestions are in fact incorporated in the speech that was delivered.

Chairman GLENN. How have your efforts been going to stake out a U.S. leadership role at the IPCC meetings?

Mr. REILLY. We have chaired the Response Strategies Working Group, which is one of the three groups addressing IPCC questions.

The others are the Effects Group, chaired by the Soviet Union, and the Science Group, chaired by the United Kingdom. I think, in fairness, most participants in the process would say that our part in that has been as careful and constructive and has progressed as rapidly as—perhaps more so—any other.

I am not aware of reports that have been done by any other Government that are as broad gauged as the report that EPA did, for example, on options to stabilize emissions of greenhouse gases, which is a report that is proving very useful to that process and to all the other governments. We continue to hope, as the President proposed at Malta to President Gorbachev, that we will have the opportunity to host the negotiations for a framework convention, sooner rather than later, sometime this fall when the IPCC concludes its report.

So from our point of view, certainly our part in the Response Strategies Working Group is very much on track.

Chairman GLENN. We have a provision in this bill, title V, you are probably familiar with it, which provides for a Commission on Improving Environmental Protection. Basically what it looks at is the overlap that occurs. Almost every department of Government has something to do with EPA. There are so many boards and commissions and committees, and it is just a hodgepodge of things. And what functions go into CEQ and things like that?

It became so complex when we were looking at it that we decided the best thing to do was to have a commission to really look at this and try to solidify or consolidate some of these things, but do it on a studied basis, not try to do it in a bill like this.

Do you favor title V, and do you think that is a valid concern that we are addressing?

Mr. REILLY. I do favor title V. I think it is a very important problem that we have. As we enter the 1990's, the eight statutes that EPA administers, clearly have independent histories and parentage and many overlapping implications. We have given a high priority in my time at EPA to integrating our statutes and trying to ensure that to the extent that we can—and we cannot always completely because of these different histories and statutory requirements—we want to make sure that our strategy for environmental protection is comprehensive, is integrated, doesn't duplicate and is not wasteful.

We find that the question that should be asked with respect to pollution is not so much how you get it out of that medium or that medium, but what is the most efficient way to get rid of it altogether. Well, our statutes sometimes, but not always, permit that. It would be a great advantage, I think, if a commission were to take that responsibility, focus on cross-media effects and integration and make some recommendations.

Chairman GLENN. OK. Another subject. In hearings before Committee just last October we had the IGs of different departments in to give us their views of what the areas of greatest vulnerability were in these different departments, following the HUD example. We thought had we picked up earlier on some of the HUD problems that the IG had set out, not in very forceful language, but had we been alert to that we might have forestalled a lot of the HUD difficulties.

Now, the EPA IG that we had in testified that some EPA enforcement penalties had been reduced up to 98 percent, and some were never collected; actual compliance with orders was never monitored; and it seems clear that penalties are not sufficient to remove the economic incentive to violate laws. In other words, it is easier to pay your fine and continue right on polluting.

The EPA IG agreed with the observations that these practices amounted to forceless enforcement. Now that is not something that needs a new department to deal with it.

What is the status of that? What are you doing to see that a strong enforcement program is put in place? We cannot do it except by having a fine which has been negotiated down to nearly nothing and they go right on polluting anyway.

Mr. REILLY. Well, I take those concerns very seriously, and some of them certainly have foundation. We have given enforcement a very high priority. Last year we had across the board the highest numbers in our enforcement experience in terms of actions brought, criminal complaints, fines assessed, settlements, and consent orders agreed to. It has been a very good year for enforcement.

Nevertheless, we do continue to have some questions in the enforcement area. We have just this past month reorganized our Office of Enforcement. I think that we are going to get a better grip on the enforcement issue and ensure that where there are these sharp divergencies, as the Inspector General reported, between the fines finally agreed to or assessed versus those originally sought, that there is a clear rationale for that. Sometimes that is justified. Sometimes it is a matter of getting commitments by a private party to comply with agreements and to take actions that are genuinely protective of the environment, commitments that otherwise we might have difficulty winning.

The problem that the IG identified in his report is that he was not always able to ascertain from the record the reasons for those sharp differences. We want to do a better job on that in the future and I think we will.

Chairman GLENN. My time is up. His testimony indicated to us that it was more almost a pattern rather than an exception that those things occurred. We had planned, quite apart from this particular hearing today, to address that with you at some time and we will still want to follow-up and do that, because it just thwarts the whole intent of the law when a thing like that occurs.

Mr. REILLY. I look forward to that, Mr. Chairman. We have just increased our budget for enforcement 22 percent in the President's proposed 1991 budget, and I think we are going to strengthen that whole area.

Chairman GLENN. Good. Senator Roth.

Senator ROTH. Thank you, Mr. Chairman.

Mr. Reilly, you spoke of the strengthened position of the head of EPA if he is a member of the Cabinet, particularly in the international field. Now, I understand that you have a very effective and close working relationship with this President.

Isn't it also true that the creation of a department will help ensure in the future that whatever the relationship between the President and the Secretary may be, the Secretary will be in a strengthened position to promote environmental concerns through the Cabinet position?

Mr. REILLY. I think that is very fair. The Cabinet status, honestly, will codify what is substantially already a reality in the Bush administration. I attend virtually all cabinet meetings. I am not aware of one that I have not been invited to. That was not true with my predecessors. Before President Bush it was a rare occasion when EPA administrators attended cabinet meetings, and it is certainly true that after this President there is no assurance that without cabinet status the Administrator or the Secretary would still be in the room. I think that is correct.

Senator ROTH. I made in my opening statement the comment that no country should have a competitive advantage because it permits dirty industry. I wonder if you agree with that statement, and if you do, what do you see as your responsibilities in the cabinet in helping ensure that that is eliminated as a competitive factor?

Mr. REILLY. Well, I think that the racheting up of environmental standards and protection criteria throughout the world is a matter not just of public health and environmental protection, but it is also a matter of insuring a level playing field economically. We are working with, I think, 30 or so nations now in formal science and technology agreements, bilateral agreements, to try to assist other countries in strengthening their environmental protection. Incidentally, with respect to most of those countries we do not have a formal legislative authorization to engage in technical assistance of the sort that they typically want and request.

As we work with these nations what they want to know—particularly the Eastern European countries, who now are asking on an urgent basis for this kind of help—is what are your health criteria, how did you determine to set certain standards, what was your strategy for water pollution cleanup. The Soviet minister recently consulted us about the Volga and about other damaged resources in the Soviet Union.

We want to be able to respond to those requests. We get them because the United States is by and large recognized as a world leader in this area and we would hope to be able to continue to respond to them to the benefit, I think, of economic policies.

Senator ROTH. I was interested when I was recently in Berlin where a leader of the New Forum, the opposition group, stated that he was opposed to unification. He is one of the few that I heard express that point of view. But it was for the surprising reason that he was afraid that West Germany would dump all of its dirty industry into East Germany. So I think there is great interest.

Mr. REILLY. Anybody who has ever been to East and West Germany need have no fear that West Germany will victimize East Germany environmentally. East Germany is a mess environmentally. In fact, the Federal Environment Minister of West Germany has made the remark that he could get more environmental protection for the citizens of the Federal Republic by spending one deutsche mark on East German cleanup than by spending five deutsche marks on West German cleanup. They simply have done so much more in West Germany.

Senator ROTH. There was no question about that. Let me go on to one more question, Mr. Reilly. We want a clean America, and we want an America at work. Some people think that that conflict—that they are necessarily at conflict. Some say that that is the reason the Clean Air Act is currently in some difficulty.

What do you see as your role, or the role of the Secretary? Is it to be an advocate for environment, or do you see yourself also as a catalyst to try to bring about the kind of situation that will move us forward in both goals?

Mr. REILLY. I think the EPA Administrator or Secretary must see himself as an advocate for the environment. That, it seems to me, is the historic role of the agency, that is the responsibility conferred on us by the statutes that we administer. We must, I think, exercise great care and sensitivity to ensure that we carry out that responsibility with concern for cost effectiveness, for taking the most economically efficient courses of action when we try to clean up the air or the water or the waste that afflicts the country.

One problem that one tends to see—and there are certainly tradeoffs and conflicts between economic and environmental protection goals from time to time—the primary problem I often note in arguments that express great concern about the economic impact of environmental protection is the failure to acknowledge the benefits—the great health costs that we suffer as a Nation because of dirty air for example.

Increasingly, leaders of the major industries are among the most explicit about recognizing that we have to do better as a country environmentally. We have to do better, and we have got to recognize that the consequences over the long term of ignoring the environment now are not just bad for health and environment later, but for economic problems later, for liabilities later, for impaired ecosystems, for resources destroyed, resources like ground water, that have tremendous value economically, as well as in every other way.

Increasingly, in short, we are coming to recognize that our economic goals and our environmental protection goals need to be better reconciled, better integrated than we have managed to do thus far as a country. I think we are moving in that direction.

Senator ROTH. Isn't it also true that by making the head of EPA a Secretary so that he participates in cabinet discussions, that there are other Secretaries that will, of course, be looking at the economy and jobs and so forth, so it provides for a better opportunity of discussion and promotion of environmental matters?

Mr. REILLY. There is, in my experience, never a shortage of people looking to those concerns, yes, sir.

Senator ROTH. Thank you, Mr. Reilly.

Chairman GLENN. Thank you. Under the Committee's "early bird" rule, Senator Stevens.

Senator STEVENS. Thank you very much.

Mr. Reilly, in comments I have placed in the record already I have raised the question of why we would have another DOE. I have supported, as others here have, the creation of a Department of Environmental Protection, but I guess I should really ask my question of the Chairman and Ranking Member. I don't understand why this has been changed now. We have a Department of

Energy, a Department of Education, and now we are going to have a Department of the Environment. And if there is anything that will confuse the public when DOE publishes its regulations, I think that's going to be it. Why can't it be the Department of Environmental Protection, as it has been the Environmental Protection Agency?

Mr. Reilly. Well, we have kicked that around within the agency and discussed a number of name possibilities. I think generally we are persuaded that the Department of the Environment is more elegant, more succinct, more simply expressive of what we would like to see as our responsibility and our mission. It also is closer to what other countries tend to call their equivalent departments.

I think that to deal with the problem of having three DOE's, one might simply name the agency "USDE" for short, much along the lines that the Agriculture Department has become known as USDA, and deal with it that way.

I wouldn't think that that is an insurmountable problem. I notice that in the Cabinet Room when we have had meetings for Secretary Cavazos it says DOEd, and for Energy it is DOE. I think that is something we can overcome, we can solve.

Senator Stevens. Well, I hope we do it in this legislation. I am not sure that we ought to leave it to chance, because it does make a difference. When regulations are published and referred to, they will be DOE regulations and everyone will run pell-mell to get them only to find out they are new education regulations and not yours.

I really think it has to be solved. Along with my late good friend, Senator Jackson, I cosponsored the National Environmental Protection Act. He was the principal author, although I worked with him. I note only one reference to that act in this bill. I ask you then, if you envision this bill making any changes to substantive law?

Mr. Reilly. It does propose to engage the new bureau or center for environmental statistics in the preparation of an annual report on the state of the environment, which is historically a function conferred under the National Environmental Policy Act on the Council on Environmental Quality.

EPA has traditionally provided half or more of the information on which CEQ reports were based, so that may be less a change than would appear. In terms of substantive law, however, the functions of EPA remain as they are. We have the statutes to administer that we will continue to administer, simply under a different name.

Senator Stevens. The Chairman mentioned the wetlands policy. I applauded the President when he announced the no net loss of wetlands policy, and then I saw the memorandum of agreement that was entered into between your agency and the Corps of Engineers. As you know, we have had long discussions on that. I thank you for the time that you, and others, spent with me, in trying to ensure that a national policy can have relevance to an area such as the one I represent.

Since it became part of the United States, Alaska has used 80,000 acres of wetlands. We originally had about the same amount as the United States had in the south 48, and yet the original MOA appeared to us to say that if we wanted to develop one of the 103.5 million acres we got from the Federal Government when we became a State, we would have to retire one of the 80,000 acres. In other words, it was creating a permanent ceiling of 80,000 acres of wetlands for use by the people of Alaska.

That is an introduction to this question. How would you view your relationship, if this bill passes, to the Corps of Engineers and other agencies that currently have statutory authority in the areas in which you will have some reference? For instance, NOAA has authority in the oceans—another subject I am vitally interested in—and Alaska has half the coastline of the United States.

Does this change your relationship to the Corps of Engineers and to NOAA in any substantive way, or will that be addressed in this Commission's recommendations?

Mr. REILLY. This legislation does not propose any changes in jurisdiction or statutory responsibilities, other than the one that I mentioned. We would expect the relationship with NOAA and with the Corps with respect to section 404 of Clean Water Act to remain precisely as they are.

Senator STEVENS. Thank you. Mr. Chairman, I want the record to show I have dealt with a lot of people in EPA, and I am not blowing in Mr. Reilly's ear, but he has had one of the most open offices, with regard to answering questions and accepting comments and suggestions for change, of anyone who has ever been in that office. I welcome the opportunity to join on this bill and to see that he becomes the first Secretary of what I hope will be the Department of Environmental Protection. But I think you have a good suggestion on the U.S. Department of the Environment. That might just solve the problem that I mentioned.

Mr. REILLY. Thank you sir.

Chairman GLENN. Thank you. Senator Pryor.

Senator PRYOR. Thank you, Mr. Chairman.

Mr. Reilly, I would like to ask what checks and balances you now use in your agency what you hire outside contractor consultants? What checks and balances do you use to find out who else they work for and what they do?

Mr. REILLY. We now, Senator, require contractors to inform us about the range of clients for whom they work and to assure us that they will not do things for us that affect those other interests.

Senator PRYOR. How do you enforce that?

Mr. REILLY. Well, in the contracts that we enter into, in the guidance that we give to our own employees about how they are to approach contractors, in the manuals, in training that we are now proposing to conduct for EPA employees on the standards and criteria for engaging contractors. This was a particular concern that we identified in the management review of Superfund that was done for me last spring. There is no question that we have had serious problems with contractors for a variety of reasons. The Superfund program was designed to include a large amount of contract work. EPA never was itself, equipped with sufficient resources to do all of the things that need doing under the Superfund law.

We also found that we have suffered, particularly in some offices, a high attrition rate of our own people who have gone to work for these contractors. The result of that, practically speaking, in some cases has been that people who very recently have worked for the agency have continued to engage in perhaps too close relationships with their former colleagues. We are trying to address that in a number of ways. We have added quite significantly to the people who are working within the agency on some of the most troubled programs. For example, we have transfers 500 people to enforcement over the past year using resources that previously would have gone to contract work for cleanup, reflecting a new enforcement first priority that was established in that management review.

Senator PRYOR. You have, I believe, approximately 16,000 employees today in the Environmental Protection Agency?

Mr. REILLY. That is right. It is close to 2,000 more than when this Administration took office. That is right.

Senator PRYOR. You have approximately, what would you say, 100,000 contracts for outside services? Would that be in the ballpark?

Mr. REILLY. I can find that out for you, sir. I haven't any idea what the total number would be.

Senator PRYOR. I probably should correct that, 100,000 employees in the consulting and private contracting force.

Do you find that that means the tail is wagging the dog?

Mr. REILLY. Well, there clearly is a very important line that needs to be established between what is appropriate for a Federal civil servant to do and what a contractor should do. Obviously in some cases that line has been crossed. We do not countenance contractors writing testimony, drafting regulations, preparing policy guidance and things of that sort.

Senator PRYOR. When did this policy change?

Mr. REILLY. It is my very clear policy. I have made this policy clear to our own people constantly in a number of guidance memoranda and particularly in the management review.

Senator PRYOR. Here is an example, and I could list many more, as recently as March 1989, the testimony of Linda Fisher, Assistant Administrator for Policy, Planning and Evaluation, was prepared by the Bruce Co., suite 210, 1100 Sixth Street.

ICF, as I have said before, has $200 million today in contracts by EPA. They represent every major polluter in our society, and yet they are the ones who are writing the regulations and publishing those regulations in the Federal Register.

This is on your watch, Mr. Reilly. I am trying to be helpful. I just want to remind you of really what is going on, and I hope that you know.

Mr. REILLY. I think you are concerned about a very important problem.

Senator PRYOR. Thank you.

Mr. REILLY. I do not know about it and I respect your leadership on it, and will issue some comprehensive guidance on this in April of this year that we have been working for sometime to prepare.

The role of a contractor such as ICF requires us to be careful in making the distinction between appropriate functions for Federal civil servants and for contractors. However, we must recognize that there are some functions for which we must rely on contractors, such as the development of an air pollution model that we don't have the resources to both build and maintain.

Senator PRYOR. My time is up. Thank you, Mr. Chairman.

Chairman GLENN. Thank you, Senator Pryor.

Senator Heinz.

Senator HEINZ. Thank you very much, Mr. Chairman.

Bill, just one comment on Senator Stevens's and your colloquy regarding DOE one, two, and hopefully three. Whatever you do to take that into account, do not let anybody talk you into changing the name of it to the Department of Protection of the Environment, or DOPE.

Mr. REILLY. Your point is well taken.

Senator HEINZ. For all kinds of reasons.

In your earlier response to Senator Glenn, I think it may have been his first question about the President's address to the IPCC yesterday, you indicated you had made a number of suggestions to the President and that a good number of them—you said something like two-thirds or three-quarters—were incorporated.

Obviously, we are very interested in which ones he did not incorporate.

Mr. REILLY. I am not going to tell you that.

Senator HEINZ. I do not know whether you suggested that he take a stronger position on freezing the constituents of global warming—CO_2, CFCs and the rest—at existing levels, or attain a freeze no later than the year 2000, or some proposal like that. Would you be at liberty to tell us those policy elements or suggestions that you suggested for one reason or another did not make it into the speech?

Mr. REILLY. Sir, I don't want to get into any suggestions I made to the President on this. But let me say apropos of the issue, that I think there is an unreal quality to some of the debate that focuses on the unwillingness of the United States or some other countries to identify and agree to CO_2 reductions of a certain percentage by a certain specific date at this time. We did hear, we did see some countries in the Netherlands at the ministerial meeting back last fall declare in favor of such policies.

I worked closely with the ministers from some of those countries and asked for information about economic impact, specifics of implementation plans, integration with economic development and energy policies. I found that in most countries these were at a relatively primitive level, in fact, less developed than in the United States.

Senator HEINZ. This is less developed in the developed countries?

Mr. REILLY. I am talking about developed countries that have made a great issue of CO_2 reductions. I don't think that very many of them have thought this problem through more carefully than the United States has. We are doing the scientific analysis. The President has proposed a 57 percent increase in research on global climate issues this year. We are going to commit more than a billion dollars to this enterprise. That is far and away more than any other country is spending, and those are answering precisely the questions that need to be answered to inform sound policy.

The United States is also doing the economic analysis, which oddly, it seems to me, at this relatively late date in our concern about this issue, has not been done. And it is difficult to imagine that countries will take actions, commit themselves to long term decisions with major consequences for their transportation sector, their energy resources and the rest, without knowing what the impacts are likely to be. We expect to have those answers, I would hope no later than the time that we go into negotiations.

Finally, even if we did have a specific reduction target and date in mind, it would seem odd, I think, to disclose that unilaterally at this time, given that any country, even the United States, which is responsible for a wholly disproportionate amount of CO_2, is going to have to work with other countries to cause any real improvement in the problem that we want to address.

Senator HEINZ. I think that is a very important point, although I do not know that anyone here on this Committee is urging you to make unilateral commitments to freezes or reductions. It is very valid to point out that if you want to make any dent in CO_2 and other global warming constituents, it must be done on a multilateral basis with a unilateral approach. When you went to the Netherlands it was clear that neither the Soviet Union nor Japan were prepared to go along with shifting the contribution to global warming from the United States to, at a minimum, those two other countries.

My last question before my time expires is this. Back when there was some argument about whether or not your voucher for air fare to the Netherlands was going to be approved, one of the issues I raised on the Senate Floor was whether we are spending as much effort looking into the cost of not doing anything as at the cost of adopting a strategy.

Are we doing more now than we were 6 months ago to assess the cost of ignoring the problem, if you will, costing out the problems that might occur in this very uncertain science of figuring out what the weather is going to be, and what the costs might be if we do not do anything?

Mr. REILLY. Well, the broadest Federal study and report of the effects of global warming that I am aware of was done by EPA: the effects report that was finalized just last week, that was originally released in draft last summer. And that takes as given certain temperature increase scenarios that are contestable and obviously not certain at this time.

And the effects are very extensive. The report does not, however, attempt to attach dollar numbers to them, to the rising sea level, to the shifting of agriculture, to the loss of wildlife, and the aridity of soils in certain areas of the country. That would be a significant undertaking. I agree with you that we ought to do it, and I think it is probably fair to say we are not spending as much time trying to calculate the cost of climate change as we are calculating cost of some response strategies. However, we haven't gotten that far doing even the latter at this time.

Senator HEINZ. Is it possible that elevating EPA to cabinet status will help in two ways; first, to get you the necessary resources, and secondly to allow you to swing a more influential stick in international negotiations?

Mr. REILLY. Well, it is certainly possible that the latter would be true. I want to be careful with respect to any expectations we raise about the likelihood of more resources in any area. Obviously, we are in a very difficult budget situation and have to attend to a great many needs for which the resources are, unfortunately—relative to the problems, at least—meager. We did do, I think, quite well in the budget the President recently proposed. A 12-percent increase in our operating budget is, to my knowledge, about as well as or better than any other agency of the Government has done.

So my answer on that would be yes to the latter question, and I am not so sure about the first.

Senator HEINZ. Thank you very much.

Chairman GLENN. Senator Cohen.

Senator COHEN. Mr. Chairman, I have a statement I would ask permission to be included in the record.

Chairman GLENN. Without objection, it is so ordered.

[Senator Cohen's opening statement follows:]

OPENING STATEMENT OF SENATOR COHEN

Mr. Chairman, a little over a year ago I cosponsored a bill introduced by Senator Durenberger that proposed the elevation of the Environmental Protection Agency to the Cabinet. The arguments in favor of this legislation are as convincing now as they were then, and I am pleased that Senator Glenn has taken the idea of a top-level Department of Environment and Expanded it to reflect a greater need for global environmental initiatives. It is to his and Senator Roth's credit that the White House is supporting this legislation, and I hope the Senate will act quickly on it following the completion of these hearings.

As greater environmental difficulties confront us, it is important that environmental considerations and background information be available at the highest levels. The inclusion of the Federal agency responsible for environmental protection during high-level Cabinet discussions sends an important signal to the American people that the pervasive environmental problems we face will be fought under the authority of the President of the United States and not just by some lower level Administrator.

This legislation is more than symbolic, however. There are a number of issues involving environmental protection that will be discussed by the President's Cabinet, and I believe our policies will be more sound if the agency responsible for that protection is present when important decisions are made.

Very difficult problems await our President's attention, including the depletion of the upper ozone level of the atmosphere, global warming impacts, the cleanup of hazardous wastes at Federal facilities, and the elimination of serious air pollution in our major cities. The current Environmental Protection Agency has important responsibilities in developing the means to address these problems, but they are also issues in which other Cabinet-level Departments play crucial roles. As the Secretary of State discusses international negotiations on the reduction of chlorofluorocarbon production, shouldn't the Department of Environmental Protection be present at the table to participate in the discussion? As the Secretary of Energy raises the issue of hazardous waste cleanup at our Federal defense facilities, shouldn't the Secretary of Environmental Protection play an integral part in developing a plan to facilitate that cleanup? I firmly believe that the answer to those questions is a resounding "Yes."

The environment is crying out for help, as is evidenced by the significant problems we face—solid waste disposal, hazardous waste cleanup, air and water pollution, the degradation of our oceans, the loss of ground water resources and wetlands, the depletion of the ozone layer, and the greenhouse effect. The many challenges are complex and require attention at the highest levels, or the world we leave our children and grandchildren will be a sorry one.

As we talk about the need to focus increased attention on the significant environmental problems that confront us, let us remember to think about ways of putting those worlds into action. This legislation is one way of doing so, and I look forward to its enactment.

Senator Cohen. Mr. Reilly, I only caught part of your testimony, but I assume that the elevation to cabinet status is more than symbolic in your own mind?

Mr. Reilly. Yes, sir.

Senator Cohen. I mean, you have indicated you have been sitting at the table for all the meetings in any event.

Mr. Reilly. I have been in the Cabinet Room. I have not been at the table. I have been against the wall, actually.

Senator Cohen. Your chair has been back there, right? And now you moved up here.

Mr. Reilly. Yes, sir.

Senator Cohen. Well, I was going to say, that is an important distinction. I recall—Senator Glenn will remember this—when we tried to set up a special operations command and we wanted to have a four-star general and the Defense Department only wanted a three-star. We said no, four-star. It made a difference, because that was an equality of status that gave that individual greater bargaining power, and I think the same is true here as well.

When the Secretary of State discusses international negotiations on CFC production you ought to be sitting at the table as an equal. When the Secretary of Energy raises the issue of hazardous waste cleanup at a Federal defense facility, you should be there as an equal partner. So I think it is an important symbol, but it is more than simply symbolic.

I was wondering what the relationship has been and what it will be with respect to the Department of Defense? I know, for example, EPA has to interreact with DOD on asbestos and hazardous waste cleanup.

One area that has been of increasing concern to me has been the impact of electromagnetic fields upon individual citizens. For example, there are several books which I think are of interest, Paul Brodeur has written two books, one called "The Zapping of America." He recently wrote a book called "Currents of Death," which just came out several months ago. It has not received much attention, but it should.

Dr. Robert Becker wrote a book back again in the 1970's called "The Body Electric," and now has a new book about to come out called "Cross Currents."

And these authors deal with not only the subject matter of the impact of electric blankets, computer terminals and microwave stations, transmission stations, upon our health, but they also raise questions about defense communication systems, such as over-the-horizon radar systems.

The question I have is what sort of relationship have you had to date in dealing with this subject matter in terms of its carcinogenic impact upon individuals living near these facilities, and what has your experience been so far?

Mr. Reilly. Senator, I know of your interest in the health effects of electromagnetic fields, and have begun to develop an agency response to it. In my own neighborhood of Alexandria this is an increasing concern, with measurements of field levels being taken throughout the area I live in.

For a reason I don't fully understand, EPA ceased doing much work in this area some years ago after an initial period of interest, and we are presently looking at the research. This is not research that has been generated within EPA, however. We are obtaining it from other agencies. We are going to make an effort to assess it, and I will be glad to get back in touch with you when we have some information about this. I know it is of growing concern to a good many people.

Senator COHEN. It is of concern not only I think with respect to defense issues, but also to intelligence issues. Mr. Chairman, my own interest came about in going back and reading the origins of this whereby the Soviet Union years ago was zapping our embassy in Moscow with heavy doses of electromagnetic waves. At the time our State Department employees complained of a number of things, serious physical reaction to those electromagnetic waves, and it was just sort of dismissed, saying it was simply psychological, there was no evidence to support any kind of a physical connection.

Well, I think a great deal of research had taken place in the late 1960's and mid-1970's that coincided, as a matter of fact, with a diminution of interest on the part of EPA in this field. And I would simply suggest that this is something that we are going to have to contend with that is a major, major problem that we have failed to look at at this point.

Chairman GLENN. If you would yield just for a couple of seconds here. We have a tentative plan to have a hearing on this specific subject later this year if we can get everything together. I look forward to working with you on that, and with Mr. Reilly also.

Senator COHEN. The Department of State is going to testify, apparently, that the interagency groups are already operating effectively, and I raise this in connection with your support of Title V of the bill that establishes a commission to coordinate the various Federal environmental policies at all levels.

The State Department says we are doing it already. What is your reaction?

Mr. REILLY. Well, the point that I would make is that the cabinet level committees on global climate issues, as on others, to my knowledge and based on my experience with them, are working quite effectively. We don't have any difficulties being seated at the table and being taken seriously and working out differences in those committees, and I don't think the Chairman or the other members have problems either.

The main contribution I see from the commission is to sort out the very complex interrelationships that we have largely as a consequence of the laws we administer. These laws don't presently leave us too much latitude about how we integrate our statutes and put our programs together. That would assist us in establishing more clear priorities, and it would allow us to make a more efficient attack overall on pollution if we could do a better job of integrating our air and water laws, for example, than the laws presently contemplate.

Senator COHEN. So the interagency aspect already works, and what you are looking at title V as doing is simply to reconcile the conflicting laws that govern the policy——

Mr. REILLY. That is the contribution that really needs to be made at this time. It needs to be made by parties who have the confidence of both the executive and the legislative branches of government, because undoubtedly the kinds of changes that it will recommend will influence things like revisions of laws and Committee jurisdictions and things of that sort.

So we are going to have to both build the case and improve the political climate to acknowledge that this accretion of laws and responsibilities that we exercise has resulted in some inefficiencies and we could do better.

Senator COHEN. Thank you very much.

Chairman GLENN. Thank you. We will have another round, and I hope we can keep it as short as possible. I have just a couple of questions here.

The OMB "High Risk List," as we refer to it, reflects that EPA's financial systems are, and I quote OMB, "inaccurate and unreliable, and the weaknesses in these areas have led to inaccurate balances in 40 percent of the agency's accounts receivable."

That's a rather fundamental management problem whether we have EPA as an agency or as a department.

What are we doing about that?

Mr. REILLY. Well, you know, I was startled to find that report in the newspaper some weeks ago, and particularly——

Chairman GLENN. It is an OMB report.

Mr. REILLY. Yes, I am aware of that. And particularly, in view of the fact that—and it is fair to say that our financial management staff is regarded as among the best—executive establishment. I think that you would find that the Appropriations Subcommittees that have oversight over EPA would compliment and support that.

Chairman GLENN. This was specifically in accounts receivable, as I recall. Is that a special area of difficulty?

Mr. REILLY. Well, I think that it relates to a problem that is more than a year and a half old, a couple of years old, as I recall. The information on which it was based was outdated when the report finally was made public by OMB. And I believe that it has been substantially corrected. I don't think we have that problem at this time.

Chairman GLENN. OK. We may want to follow up with some additional questions on that later.

Mr. REILLY. I would be glad to amplify on that for the record if you would like.

Chairman GLENN. Good. One other question: Hearings before this and other committees have established extensive violation of environmental laws by other Federal agencies. That is one of our big problems. We have the A-106 process set up by OMB to monitor environmental expenditures. OMB has said that this system that they set up is inaccurate and inefficient, even though they are the ones that set it up.

CBO and OMB have found—and we had testimony to this—that if you look at all the liabilities of Government—and I know they are not all going to come due at once—but we have somewhere between $3 and $5 trillion in potential unfunded liabilities. In other words, it is like the nuclear weapons clean-up. We have to clean up the weapons production complex. Now we know more about it. It is going to be $80 to $100 billion over the next 20 years, according to the current DOE estimates.

I know you are involved with some of that, too. Ohio and other states have consent agreements where EPA is doing some things on monitoring this kind of clean-up.

We have S&L problems. We have guaranteed farm loans. We can go on and on with a long list. Now, a number of these are in the EPA area, in Superfund and other areas.

I would hope that as a cabinet secretary you would be better able to exert a real leadership role in that area. I guess what I just said is more a statement than a question, and I suppose you would not disagree with my characterization. But do you have any thoughts on that?

Mr. REILLY. The Federal agency cleanup problem in insuring that Federal agencies do comply with environmental laws——

Chairman GLENN. Let me put it a little differently. Do we need to change the A-106 process, or is it adequate to deal with the problem we face? This is an enormous problem. If we see one after the other of this house of cards start coming down, anything we have in liabilities right now is going to look pretty small by comparison. We could be into trillions in liability, not just billions.

Mr. REILLY. Well, I recognize that. I am not unhappy with the relationship that we have either with the Department of Energy or the Department of Defense on these issues at this time. We have a large number—I think close to 200—interagency agreements under which we are trying to develop compliance schedules, remedial action plans, clean-up programs and the like in cooperation both with them and the states.

Chairman GLENN. Do you need a change in A-106?

Mr. REILLY. I would not say that we do, no, sir. What I was going to say is that the dollar amounts assigned to these clean-up problems are, as you indicate, off the charts, as they are for Superfund generally. We are finding that cleanup is costing us in the range of $25 million per site. And if you do the numbers of National Priority List sites and costs, you quickly see that the resources are not presently there and not likely to be there.

Chairman GLENN. I saw a report on TV this morning about the 1,200 Superfund sites we are supposed to have cleaned up. The report said that so far, after all the effort and expenditure of, I think he said, $2 billion, we have addressed 40 sites, grand total; is that correct, out of 1,200?

Mr. REILLY. That is one of the oft repeated and I think misused statistics around.

Chairman GLENN. Is it right or wrong?

Mr. REILLY. The cleanup—when we remove a site from the National Priority List we essentially certify it finished, complete, risk free. It is very rare that we are able to do that with any certainty over a number of years. In fact, we have completed hundreds of removal actions, a very large number of clean-ups. However, much like a patient that you try to cure of cancer, we don't certify the site as suitable to be removed from the National Priority List for 5 years.

Chairman GLENN. How many do we have that are up to 75 or 80 percent? Do we have any figures on this? Could you provide those for the record?

Mr. **Reilly**. I will provide you with those figures. What I would like to do, and nearly did last spring, is to get another category, which includes all of the sites on which we have done virtually everything we are ever going to do but which we are merely monitoring, continuing to see whether they remain clean, whether there is any further problem with the plume, or whether there is waste there that we weren't aware of. If we did establish such a category I am sure the number would be much higher. I don't know precisely what it would be, but I will get that number for you.

Chairman **Glenn**. Well, if you can provide that for us, then we will see, we might want to——

Mr. **Reilly**. I wonder if you would agree that we ought to have that category?

Chairman **Glenn**. You can put any categories in there you want as far as I am concerned. But the figure that was used this morning on TV was 40 sites had been completed out of 1,200 after we spent $2 billion.

Mr. **Reilly**. I dread the onset of another election season in which that number is out there and can be used for dump stumping and the other misuse that it has been used for.

Chairman **Glenn**. OK. Correct it for our record with your additional information and we will try and avoid that in the next election campaign.

Mr. **Reilly**. All right; sir.

Chairman **Glenn**. Senator Roth, do you have anything else?

Senator **Roth**. Yes. Mr. Reilly, in drafting this legislation we did try to give the Secretary considerable flexibility in organizing the department. At the same time we did list a number of functions that we thought were important to be addressed at the highest level of the Department of the Environment.

Are there any functions that you feel were omitted, or were included and not necessary, or do you have any other suggestions as to the——

Mr. **Reilly**. I will submit for the record some technical suggestions, Senator, but the answer, broadly speaking, to your question is no.

Senator **Roth**. Do you have adequate authority under the legislation? Are there any areas where you feel——

Mr. **Reilly**. Well, I mentioned that we would like some amplification, some clarification of our authority to engage in providing technical assistance to other countries on environmental protection matters. We are currently doing that with upward of 30. We, I believe, have clear statutory authority with respect to what we are doing in Poland and Hungary, but it is less clear in other cases, even where we have had, as we have with the Soviet Union, an 18-year history of a science and technology agreement. We infer that from other responsibilities and statutes, but we don't clearly have that authority, and that is one area that we would appreciate be clarified.

Senator **Roth**. And it is certainly a very important area. I share your concern on that and we will be happy to take a look at that.

My final question is along the same lines. EPA has been generally regarded a regulatory agency and not directly involved in policy development. How do you see the new department functioning in its expanded capacity? Do you see some kind of office of policy planning to develop a long term strategy?

Mr. **Reilly**. Well, we do, in fact, have an Assistant Administrator for Policy, Planning and Evaluation at this time, and I would assume that that would become an assistant secretaryship and would continue to exercise those functions. It does have those responsibilities now.

Senator **Roth**. Do you think what we are doing is adequate from the standpoint of trying to foresee problems and develop long term strategies?

Mr. **Reilly**. We have instituted a strategic planning process that takes a 4-year horizon at the Agency and tries to chart our course and anticipate looking back where we would want to be in specific areas. I have high expectations for that process.

And I would also note that though we are regarded as essentially a regulatory agency, we do engage constantly in the policy process. We are right in the middle of it. In addition, we are looked to increasingly by the public to play a broader role, to advise on issues of pollution prevention, recycling. Even though we may not have a specific program on a particular issue area, such as our clean water or our clean air program, EPA nevertheless is perceived as offering equivalent opportunities to improve the environment of the United States.

Increasingly we are being looked to as a source of information, environmental education materials, things of that sort. And the agency, I think, has to regard itself as more than a regulatory entity in order to really respond to the opportunities we have right now, and the expectations on the part of both the public and the President.

Senator **Roth**. Finally, with regard to the relationship of your agency to the States, many people think the States have been sometimes more aggressive in environmental matters than the Federal Government. Because of the heavy costs, of course, it is desirable to avoid any unnecessary duplication.

How do you foresee the working relationship in the future with respect to the States? Will they continue to be free to develop new approaches, which a number of them have done?

Mr. **Reilly**. In my opinion, if you looked across the Federal establishment at the States—different areas of the country at different times—the new initiatives, the innovative programs, the new ideas that have been tried out have typically come from a State before they have been implemented in Federal legislation. And that is true in wetlands, in coastal zone management, in air pollution control, some areas of waste management, water pollution, nonpoint control, across the board. That, it seems to me, is natural and I would certainly hope it would continue and that we will not get in the way of that process. Instead, we should take the best of what comes out of these laboratories and apply them ourselves.

Senator **Roth**. I would share that hope with you, because I think they have been very innovative and very often providing strong leadership. Thank you, Mr. Reilly. Thank you, Mr. Chairman.

Chairman **Glenn**. Thank you. Senator Pryor.

Senator **Pryor**. Thank you Mr. Chairman. Mr. Reilly, I understand that many times your agency literally runs out of travel money and therefore what you do is send contractors and consultants to represent our Government at some of the international conferences. Is this true?

Mr. REILLY. If it is I must say I am not aware of it. We certainly have difficulty sometimes coming up with sufficient travel budgets for some of the increasing international responsibilities we are asked to bear, but we don't, to my knowledge, deal with it by sending contract employees.

Senator PRYOR. Do you send contractors to international meetings to represent us?

Mr. REILLY. Not that I know of, no, sir. I will check into it and we will give you something more specific.

Senator PRYOR. Thank you.

Mr. REILLY. I am advised that they never represent the Government.

Senator PRYOR. Thank you. That is all. Well, I may just ask you a lot of questions. [Laughter.]

Let me ask you one about Booz-Allen & Hamilton. That is one of my favorites. What all does Booz-Allen do for the EPA?

Mr. REILLY. I can't say I have any idea, Senator. I will be glad to supply that for the record, though.

Senator PRYOR. Well, I have a Booz-Allen book here. Mr. Chairman, I am glad you are back because I was about to get into some bad trouble.

Mr. REILLY. So am I.

Senator PRYOR. I had yielded back the balance of my time and there was no one to yield to. Let me grab back a minute or two of it.

I will supply this question for the record, Mr. Reilly. I thank you and I appreciate your being here this morning.

Mr. REILLY. Thank you.

Chairman GLENN. Thank you very much.

Mr. Reilly, as you are aware, we quite often have additional questions we wish to submit and get a written answer for and include it in the record, and we would appreciate your response to that, if you could.

Mr. REILLY. I will be glad to do that, Mr. Chairman.

Chairman GLENN. We appreciate your being here this morning. Thank you very much.

Mr. REILLY. Thank you very much.

Chairman GLENN. Thank you. I look forward to addressing you as Mr. Secretary one of these days.

Mr. REILLY. Thank you, Senator.

Chairman GLENN. We are going to have a logistics problem on the Committee, because when the hearing was scheduled there was not a vote at 12 o'clock, 35 minutes from now, and we have caucuses that occur after that. I hate to do this, but I am very much afraid that we are going to have to put off the NAPA testimony, Mr. Kline, until probably tomorrow or sometime when we can reschedule it.

I hate to do that. I know you and Mr. Wegman and Mr. Messner have been here and I hate to do that, but I don't know what else to do right now because we have our second panel of State, Energy and Treasury representatives here and we will be very fortunate if we complete them before this vote goes.

I hope we can work out a mutually agreeable time here, and I am very sorry to have to do this, I don't like it. Mr. Wegman, having been a staff director of this Committee for many years in the past, back when I first came on the Committee, is familiar with this problem. And I know it wastes your time this morning here, but I hope you understand.

So we will just cancel the third one this morning and reschedule that, and our next panel will be the three representatives of State, Energy and Treasury; Ambassador Peter Jon de Vos, Principal Deputy Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs of the Department of State; Stephen A. Wakefield, General Counsel, Department of Energy; and John Niehuss, Senior Deputy Assistant Secretary for International Economic Policy of the Department of Treasury.

Gentlemen, we welcome you this morning and look forward to your testimony. Mr. de Vos, will you lead off for us this morning?

TESTIMONY OF AMBASSADOR PETER JON de VOS, PRINCIPAL DEPUTY ASSISTANT SECRETARY, BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, DEPARTMENT OF STATE

Mr. DE VOS. Thank you, Mr. Chairman, and members of the Committee.

I appreciate this opportunity to present the views of the Department of State on the proposed bill, S. 2006. Consideration of the proposed legislation is both commendable and timely. We are clearly entering into an era in which the environment has come to the forefront in both the domestic and international policy arenas. Environmental issues have become important to the international agenda, as has the need to address them by the best means available.

During the past year we have seen environmental issues raised to the highest political levels. At the Paris Summit last July, for example, the leaders of the world's industrialized democracies agreed that concerted efforts were required to safeguard the world environment. They called for "decisive action" to understand and to protect the earth's Ecological balance in order to meet economic and social objectives. More than one-third of the final summit communique was devoted to the environment.

Understanding that the environment is a global, not just a national concern, the United States continues to be in the forefront in dealing with environmental problems. The process leading both to the Vienna Convention and the Montreal Protocol on ozone depletion was but one example of the environmental initiative attributable to United States leadership.

More recently, we strongly supported the establishment of the Intergovernmental Panel on Climate Change, the IPCC, to serve as the primary international forum for considering all aspects of this vital issue. Even as we speak, Mr. Chairman, the IPCC has convened for a third session here in Washington to review its work to date. It will also consider how to complete this fall an initial report assessing information on climate change science, determining potential impacts, and providing some initial response options for limiting or adapting to climate change.

Mr. Chairman the ever increasing importance of environmental issues mandates that we support the objectives of the proposal legislation. With some clarifications, which I shall discuss, we believe this legislation would contribute to U.S. efforts in promoting environmental protection.

Mr. Chairman, let me make clear that the Department of State strongly endorses the establishment of a Department of Environment, as provided for in title II, as this would enhance our country's ability to deal with environmental problems.

With regard to the establishment of an Interagency Committee on Global and Environmental Change, I would like to underscore that interagency mechanisms have already been instituted to address this topic. These mechanisms have proven to be effective interagency fora for developing relevant U.S. policies. We hope the Committee supports those ongoing efforts and indicates in its report on this legislation that establishment of an Interagency committee on Global Environmental Change is not meant to replace or supplant current activities, but rather to bolster them to provide a more prominent institutional framework within which they may continue. Further, the bill should be clarified to reflect that the interagency Committee's activities do not prejudice the Secretary of State's responsibilities with respect to foreign affairs, including international aspects of environmental issues.

With regard to title IV, we view this title as generally supportive of the administration's efforts to enhance international cooperation on environmental issues. Section 402 is supportive of current administration efforts to promote the consideration of environmental goals, including energy conservation and financial assistance programs. This action will help ensure that economic development programs are based on sound environmental policies.

We note with respect to section 403 that the United States has for some time been engaging in a broad exchange of information with other countries on advanced energy technologies within the International Energy Agency and other international fora. This information is made available to any interested country and has been of considerable benefit globally. Similarly, the Agency for International Development has increasingly promoted energy efficiency and renewable energy projects in developing countries. Under the proper circumstances convening of an international meeting to exchange information on energy efficiency and renewable energy could complement these existing programs and further enhance global awareness of technologies reducing fossil fuel use.

Section 404, which urges the convening of an international meeting in the United States to encourage the adoption of a global climate protection convention, coincides with and is supportive of U.S. Government policy. The United States has endorsed the initiation of negotiations on a framework convention on climate change following completion of the IPCC's first assessment this fall. At the Malta summit in December, President Bush extended an offer to the international community for the first round of such negotiations to be held in the United States following the completion of the IPCC report. The President reiterated the offer yesterday at the IPCC, and I can report that it was well received. At the same time, I must be candid in saying that in conjunction with section 404–B it often is not feasible to set arbitrarily a firm conclusion date for negotiations.

Likewise, section 405 is consistent with the Administration's support for the monitoring of carbon dioxide and other greenhouse gas emissions. However, we are still in the process of evaluating the specific international mechanisms which are most appropriate for this monitoring function. Furthermore, the particular international body which oversees such monitoring may not necessarily also be the appropriate body to assist and ultimately to administer a global protocol. These are issues which should be decided in the negotiations on the climate change convention and its subsequent protocols.

Mr. Chairman, this concludes my testimony on the proposed bill. In sum, the Department of State supports this bill and believes it will enhance the Nation's ability to address environmental concerns.

Chairman GLENN. Thank you very much, Ambassador.

Mr. Wakefield.

TESTIMONY OF STEPHEN A. WAKEFIELD, GENERAL COUNSEL, DEPARTMENT OF ENERGY

Mr. WAKEFIELD. Thank you, Mr. Chairman. I am pleased to have the opportunity to discuss with you today the Department of Energy's views on S. 2006, the Department of the Environment Act of 1990. On behalf of the Secretary of Energy, Admiral Watkins, I wish to indicate the support of the Department of Energy for the elevation of the Environmental Protection Agency to Cabinet-level status.

America is a Nation with its eye on protecting the environment. We are part of a generation of Americans working toward attaining the equally important goals of economic development and protection of the environment. Given the central role that environmental concerns play in the life of modern America, it clearly is consistent to have environmental issues represented at the cabinet level and at the cabinet table at the White House.

Over the past year the EPA has given considerable helpful advice to other Federal agencies and, in particular, to the Department of Energy. For example, the EPA has been very supportive of Admiral Watkins's 10-point initiative, and was very helpful on the creation of the Hanford three-party agreement, together to the State of Washington. The significant and constructive role that EPA has played in helping other agencies meet their environmental responsibilities could have no clearer example than in EPA's relationship with the Department of Energy.

At the direction of President Bush, environmental issues at the Department of Energy's facilities are receiving a focus they never received before. Exemplary of this heightened sensitivity are several recent actions taken by The Secretary. In June Admiral Watkins announced a 10-point initiative instituting measures that will ensure full accountability within the Department in the areas of environment, safety and health. In August he released a 5-year plan for environmental clean-up, compliance, and waste management activities. At Admiral Watkins's instruction, Tiger Teams have been to many of the Department's facilities, assessed their problems, and identified various solutions. Yesterday Admiral Watkins announced extensive revisions to the Department's policies and procedures to ensure that we fully comply with the National Environmental Policy Act of 1969 and use it effectively in our planning processes.

With these actions, the Department is beginning both to establish a management culture that successfully integrates the Department's national security mission with its environmental restoration and waste management activities and to restore the environment.

Mr. Chairman, the Secretary and I support the establishment of a Department of the Environment. This would have the effect of elevating environmental issues within the Government and accurately reflecting their importance to the strength and health of this Nation. Thank you.

Chairman GLENN. Thank you. Mr. John Niehuss, who is Senior Deputy Assistant Secretary for International Economic Policy with the Department of Treasury.

TESTIMONY OF JOHN NIEHUSS, SENIOR DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL ECONOMIC POLICY, DEPARTMENT OF THE TREASURY

Mr. NIEHUSS. Thank you, Mr. Chairman. I would like to submit my written testimony for the record and make some brief oral remarks.[1]

Chairman GLENN. It will be included in its entirety.

Mr. NIEHUSS. I will concentrate on two areas that were identified in the Committee's invitation letter; first, the impact of the bill on the Department of Treasury activities, and second some views on section 402 dealing with multilateral development banks.

Let me begin by endorsing the objective of the legislation. Environmental issues are increasingly important for sustainable economic growth throughout the world, and it is fitting that the role of environment in the Administration reflect this development. The main Treasury role in environmental matters relates to our mandate for managing the U.S. Government's participation in the multilateral development banks. Several of the provisions of the bill relate to this responsibility, and in line with Mr. Reilly's comments that the bill does not intend any jurisdictional changes, we understand that it is not the intent of the bill to change our basic mandate with respect to dealing with these institutions.

The Treasury becomes involved in environmental matters in the multilateral development banks in a number of ways, and it may be useful to very briefly summarize our activities. These activities fall into two general categories. The first is very broad general policy issues such as the overall emphasis on environment in these institutions, promotion of energy conservation, attention to tropical moist forest policy, and the setting of general criteria to govern evaluation of loans. We raise these issues with the management of the multilateral development banks, and frequently with our colleagues in various international meetings, both at the secretarial level and at the staff level.

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[1] See p. 430.

Our efforts to promote environmental policy changes in these institutions have produced some significant progress. There has been a substantial increase in staffing in the environmental area at both the World Bank and the Inter-American Development Bank. Last fall the World Bank adopted procedures to ensure that environmental impact assessments were prepared for projects with potentially significant impacts on the environment. And just last week the Board of Directors the International Development Association approved an agreement to replenish the resources which contained a number of environmental provisions included as a result of U.S. efforts.

The second general category of our activities relates to individual loans made by the World Bank and the other multilateral development institutions. We monitor these loans for environmental issues through two interagency groups which are described in the testimony. Last year, for example, the Department of Treasury and the interagency groups reviewed approximately 550 different loans at various multilateral institutions for economic and environmental issues.

The object of our review is to identify environmental problems at an early stage and then work with the bank's management, the borrowing country, and various non-governmental organizations to try to produce environmentally acceptable loans.

The activities that I have briefly outlined here indicate that a great deal of coordination is already underway on environmental matters within the Executive Branch as it relates to the MDBs. As I understand the legislation that is being proposed, it is designed to strengthen those processes and to enhance the efforts that are already underway.

I would like to close with comments on two specific provisions of the bill. The first provision is Section 402 dealing with instructions to the executive directors at the multilateral banks. I should point out that Treasury has already received a very extensive and detailed legislative mandate from Congress on this issue. Section 402 would represent the 35th such instruction that we have received from Congress with respect to dealing with the multilateral development institutions.

With respect to this section, I would like to clarify the role of the U.S. executive directors in the banks. It is the banks, themselves, that issue the loans and the other financial or technical assistance and not the U.S. executive directors, as implied in the bill.

The second comment relates to provisions of the bill establishing the Interagency Committee on Environmental Change. If the bill is passed and the Committee is established, the Treasury Department would strongly recommend that some way be found to add the Secretary of the Treasury to the Committee. For example, the Committee report could recommend that the Secretary of the Treasury be named as an additional member of the Committee by the President. We feel that this addition is needed in light of the specific legislation that has already been passed and in light of the Secretary's overall responsibilities with respect to the multilateral institutions.

In conclusion, Mr. Chairman, we welcome the introduction of this bill and fully support its objectives. It is particularly important to us that we continue to make progress towards increasing the emphasis on environmental issues at the multilateral development institutions, and this bill should help accomplish this objective. Thank you.

Chairman GLENN. Thank you. We appreciate your suggestions. We will certainly look at those on the 402, and including the Secretary on that Committee also. Those may be things we may want to do.

Ambassador de Vos, we are also concerned about environmental policy in developing countries, Eastern Bloc countries—or what used to be the bloc, anyway, we don't know what it is from day to day these days—China, and other places like that. What kind of incentives do we have and how do they work on trying to deal with environmental problems?

Mr. DE VOS. Mr. Chairman, this is something that we are trying to examine at the moment in the context of the IPCC. And many of the developing countries, and even those of Eastern Europe, are saying, well look, you are asking us to sacrifice in order to come into and adhere to your environmental regulations, you are asking us to sacrifice our economic development.

And we are trying to at the same time acknowledge that yes this might be a problem, that transfer concerns are involved. We want to help these countries develop both economically and in preserving and protecting the environment. So we are in the discussion phase, quite frankly, at this point.

Mr. Reilly testified earlier that the EPA does, in fact, have some 30 international agreements in which they are dealing with the environment, and some of these, indeed, many of these, are with the developing world, including China.

Chairman GLENN. We go through all kinds of things here—like we are dealing with the Clean Air Act on the floor right now—that really impact us and impact business in cleaning up the environment. I am particularly concerned about that in my home State of Ohio. We were sort of targeted, by some of this legislation. It is going to be very, very expensive. And yet you travel to some of the other places around the world, some of the other environments that we go into and even capital cities of other countries, and the environment, compared to ours, is just hideous. You cannot believe how bad it is and they are not even addressing that issue.

And somehow, if we are really concerned about our global environment, which we are, and ozone layers and global warming and all of these things, it has to be addressed around the world or it isn't going to make much difference what we do here. We are a significant part of the problem, there is no doubt about that. I think the figures are that we use, what is it, Mr. Wakefield, we use something like 50 percent of the world's energy?

Mr. WAKEFIELD. Perhaps not that high, but it is certainly 30 to 40 percent.

Chairman GLENN. We are the biggest user per capita, anyway, by far of the world's energy, and so we are potentially the world's biggest polluter right along with it. We are trying to clean this up, but it isn't going to do any good globally unless we enlist other people along with us. That is a mammoth problem. Where the people are starving or have a problem, to tell them not to burn certain types of coal or something is wishful thinking. They are going to go ahead and burn it anyway. That is a big job to handle, and I don't know how you do it.

Mr. Niehuss, do you address that, or is that a concern at Treasury as we talk about loans and Third World debt policy and all of these other things?

Mr. **Niehuss**. Well, I think it is. You asked what incentives we have to export our environmental standards to other countries. And with our responsibilities with the multilateral development banks, we have been pushing them very strong to increase their environmental emphasis. In very rough figures, which I could check for the record, the various multilateral development institutions last year made loan commitments of somewhere between $25 and $27 billion. And this is quite an incentive if you couple this with environmental requirements.

We are pleased that the World Bank in particular is expanding the emphasis on environment throughout its entire lending process, and we think that the multilateral institutions are a very good forum for creating the pressures and incentives you are talking about.

Chairman **Glenn**. If we force that as part of our negotiation, though, don't we have to increase the amount of money then to deal with environmental concerns? You are caught between a rock and a hard place there. If you insist on certain criteria applying to the loan, then you have to really increase the loan to let them take care of the criteria.

Mr. **Niehuss**. Well, I think the World Bank has been allocating more and more of its loan budget to environmental sector loans, to individual environmental loans, and to looking at the environmental components of project loans in other areas. So that allocation is taking place within the institution, itself.

Chairman **Glenn**. This Committee has had an interest and we have had some hearings in which we got into this on our uses of energy, Mr. Wakefield, and how efficient we are or not efficient we are in some respects.

How can we promote that internationally? Do you see any way we can do that, and do more here at home too?

You know, just an example, over the last 12 or 15 years we have made enormous strides in the use of energy in home heating insulation and new super-efficient furnaces and things like that that are just amazing in the efficiency they have. And I never see those any place else I go around the world. Is that a factor that we can use here?

Mr. **Wakefield**. Well, I think first of all, Mr. Chairman, we certainly can do more at home, and we, hopefully, at the Department are moving in the direction of promoting energy efficiency, more than we have at least in the recent past.

Internationally I think there is a lot that can be done, and that is an area that we hope to work on, both as part of our national energy strategy and as part of our responsibilities in the international area in working with the various international energy agencies that we are part of.

Mr. **Niehuss**. Mr. Chairman, if I might add on that particular issue, this is one of the major areas, energy conservation and efficiency, that the U.S. Government is pushing through the World Bank and the other multilateral institutions. So again, we are using the leverage of this $25 billion lending to work on this area.

Chairman **Glenn**. How much technical assistance, Mr. Wakefield, are we now providing to energy development in other countries? I'm talking about that as opposed to just money or grants, but technical assistance for energy development to other countries I mentioned earlier, Eastern Bloc countries, China, places like that.

I guess I would follow that up with a second question, not only how much technical assistance, but are we taking adequate concerns with environmental assistance, environmental technical assistance right along with energy development assistance?

Mr. **Wakefield**. I think, Mr. Chairman, that this is an area that Admiral Watkins is very interested in, and particularly in working with the Soviet Union and other Eastern Bloc countries in areas of energy efficiency, environmental cleanup. As you mentioned, there are very serious environmental problems throughout the Soviet Bloc and now Eastern Europe, which I guess it is no longer appropriate to say it is part of the Eastern Bloc.

But the problems associated with their nuclear power plants, for example, are very severe, and Admiral Watkins has been working through the appropriate international agency to try to help them with the safety and, of course, the related environmental problems that go with that, with their nuclear power plants.

This is an area that we are very concerned with in trying to move in. I don't think that there has been a lot done in the past in this area as far as the Department of Energy is concerned, but it is an area that the Admiral has given priority to.

Chairman **Glenn**. Ambassador de Vos, we may get an erroneous impression sometime because we don't see a lot of things printed in the paper, maybe they are omitted, but where we have international arrangements or agreements, does concern for the environment come up on loans and approvals of cooperative programs and things? Is this taken into account the way it should be?

Mr. **de Vos**. Mr. Chairman, I don't think it is taken into account to the extent that it should be, because I think that we should be perfect in that area. On the other hand, the answer has to be yes, and especially in the past several years as the environment has come more and more to the forefront. In terms of our cooperative programs in science and technology and that type of arrangements, I think it is very high on our list. The President—he was then Vice President—went to Poland 2 years ago and signed an S&T agreement with the Government of Poland, and we finalized the actual implementation arrangements of that agreement last year.

And this has permitted us, for instance, to do things such as cooperating with in the Polish Government in the city of Krakow, trying to work with the Poles to refit some of their power plants there and to indicate to them techniques, clean coal techniques of producing power. And in that sense it is very much interwoven.

But I would have to emphasize that perhaps we don't do as much as we should be doing.

Chairman **Glenn**. Well, it is a big area, there isn't any doubt about that, and one we all have to work on together.

Gentlemen, we appreciate your being here this morning, and I would hope you would respond as promptly as possible to any questions other members or the staff may wish to send to you.

Our second hearing on EPA elevation will be tomorrow morning at 9:30. The hearing will stand in recess.

Thank you.

[Whereupon, at 11:50 a.m., the Committee adjourned to reconvene the following day at 9:30 a.m.]

DEPARTMENT OF THE ENVIRONMENT ACT OF 1990

WEDNESDAY, FEBRUARY 7, 1990

U.S. Senate,
Committee on Governmental Affairs,
Washington, DC.

The Committee met, pursuant to notice, at 9:35 a.m., in room SD-342, Dirksen Senate Office Building, Hon. John Glenn (Chairman of the Committee) presiding.

Present: Senator Glenn.

OPENING STATEMENT OF CHAIRMAN GLENN

Chairman Glenn. The hearing will be in order.

Today we continue hearings on S. 2006, our bill to elevate the EPA to cabinet-level status. I gave a more complete statement opening the first of our three hearings yesterday, so I won't repeat all the things that I said then. Yesterday we heard testimony from EPA Administrator William Reilly and the Departments of State, Treasury, and Energy about their views on the elevation proposal.

All expressed support for the bill and focused particularly on three key themes. One, institutional permanence. There was agreement that we must make the EPA's access to the President and organizational clout permanent, not subject to the whims of political leaders or changes in the leadership, itself, just from one administration to another.

Number 2, interagency coordination. There was also agreement that elevating EPA will greatly aid the coordination and integration of policy across the broad range of Federal agencies which are impacted by environmental matters. And I would add that virtually every agency of Government has something to do with EPA and with our environment. I don't know of any agency that doesn't have something to do or does not have some restriction or regulation that they write into their own regulations that deals with the environment in some way and we address that in this bill to some extent.

Three, international stature. All of the witnesses yesterday concurred it can only help the United States to present a cabinet-level official at international environmental meetings and negotiations, and those meetings are increasing by leaps and bounds, as we have seen. Mr. Costle will be our first witness and I am sure one of the things he will note is the tremendous increase in interest in global warming and environmental and ocean pollution even in the few years since he was at EPA.

We are the only major industrialized nation which does not have a ministerial or cabinet rank environmental representative at these meetings, as Mr. Reilly found out when he went to The Hague to the meeting just last November.

Today we will hear from Doug Costle, former EPA administrator under President Carter; NAPA, the National Academy of Public Administration, which has agreed very graciously to testify today after we had to bump them from the schedule because of time constraints and votes on the Floor that were put on after we scheduled yesterday's hearing, and we appreciate your willingness to cooperate with us on that. We will also have a panel of environmental organizations, and Mr. Nolan Hancock, a representative of the Oil, Chemical and Atomic Workers Union.

I welcome all of today's witnesses, thank them in advance for their testimony, and look forward to having the opportunity to question them.

Mr. Costle has a travel problem, so Mr. Costle, if you would come to the witness table, please. Mr. Costle is Dean of the Vermont School of Law, former Administrator of the Environmental Protection Agency in the Carter administration, and has a lot of experience in this area. Mr. Costle, we look forward to your statement, or a summarized version thereof, either way you choose to make it.

TESTIMONY OF DOUGLAS COSTLE, DEAN, VERMONT LAW SCHOOL, FORMER ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Mr. COSTLE. Thank you, Mr. Chairman. I am very pleased to be invited to appear on this matter and to lend my support to the suggestion of elevating EPA to a cabinet status.

I suppose that my real value to you is not in restating the rationale—I think you have already heard a fair amount of testimony and will certainly hear some very helpful testimony I think from NAPA—but perhaps more as a resource, someone who was there at the creation of EPA and head of the Ash Council study that resulted in EPA being set up, and worked with the Congress in originally establishing EPA, and then went off and set up a state agency and then came back ultimately to run EPA. So I have a little sense of the history.

So for that reason I think if it is all right with you, Mr. Chairman, I will just summarize very quickly what I think is the rationale, and I would state this perhaps a little bit different, and then be available to you to respond to questions that I know you have.

When EPA was originally set up if you had labeled it according to its functions it would have been called "the Anti-Pollution Agency." It was a fairly narrowly conceived notion, particularly in reflection of the fact that we somewhat narrowly conceived its mission. Society at that time had concluded that we had made a mess and it was time to go out and invent a bunch of black boxes to put on the pipes to fix the mess.

Well, in 20 years we have come up a very steep learning curve and we now understand, I think, much more broadly the nature of the environmental problems that we are dealing with. And EPA's mission is, accordingly, changing. I think while it is still the anti-pollution agency, I think we are now asking of EPA a more broadly conceived notion of its mission. And so if you look to the past you say EPA as an agency makes sense. If you look to the future, you are really talking about the need to give it a new sense of its mission.

I think it is, in short, an idea whose time has come. I think the most significant change is our international awareness now of the global dimensions of this problem. I think that geopolitical importance of environmental issues is simply going to grow. As our understanding deepens, I think we are going to understand that we have got a major international job on our hands to get a handle on these problems.

I think we will go from, if you will, the black box approach to an approach that puts much more emphasis on evolving technology, on waste reduction, on energy conservation. I think we will try to steer the evolution of our industrial base. And that is going to be critical, because I think the U.S. now will begin to rediscover its ambition as an economic power. I think what we have seen happening in Eastern Europe is in part a reflection of the economic breakdown of those systems. The aspirations for a rising global standard of living have not diminished, they are accelerating clearly in Eastern Europe and the Soviet Union. They certainly will in China and they certainly remain in the Third World.

With our current industrial base and technologies, if we were simply to replicate those we could not sustain the global commons. So we are going to have to see a dramatic evolution in technology if we are to make economic peace with the global commons, and I think the United States historically has played a leading role, will continue to play a leading role as we try to find some form of global environmental equilibrium that permits us to realize our global economic ambitions.

And so I think that is certainly mission worthy of cabinet status. I think that it is also a symbolic act, but after all, in American politics and in global politics symbolism is extremely, extremely important. So in summary, Mr. Chairman, I think it is an idea whose time has come.

At this point I would be happy to answer any questions and try to be helpful as a resource.

Chairman GLENN. Good. Thank you very much. Since 1975 EPA's responsibilities have really increased tremendously. We have had a tripling of statutes, jobs given to EPA to carry out an enormous increase in source and pollutant controls, and growing complexity, which is being brought out on the Floor even now as we consider the Clean Air Act which I don't think we are going to finish up this week as was the original intent; it is going to carry over until after this upcoming week-long break.

But it is illustrative of how our awareness has increased in these areas of toxics, clean air, auto emissions and all the things that go into cleaning up the environment. We have also been involved with DOE and with the whole nuclear complex in cleaning up all of the residue from the nuclear weapons complex all over the country; 17 different sites in 11 states, I think it is, and all of that situation that DOE has responsibility to.

Now, in looking at the way we have put this legislation together, do you have any comments on whether even what we are doing here is going to be adequate, or should we be folding more things into the establishment of a new departmental level EPA so that the efforts are concentrated more into one spot?

We said starting out here a little while ago in the introduction, there is hardly an agency of Government that doesn't have some regulation related to the environment.

Is this enough authority, or should we be folding more things in?

Mr. COSTLE. Well, I think the answer to that, Mr. Chairman, is that this will, if not now, I think as time goes on it will be an increasingly relevant question, what else should EPA have to carry out is mission. And there already are existing programs at other departments that you can make a very logical argument for putting in EPA, everything from elements of NOAA to elements in the Interior Department, and even you can argue for the 404 program.

There are a range of functions that are carried out elsewhere in the Government, and you could certainly construct a rationale for each of those individual pieces. But I think the importance of the point you make should be underscored, and that is that you could probably rationalize putting the entire Federal Government under one roof if you use environment or energy, for example as sort of your organizing principle. The fact remains that the Government is into all of these, all departments are into these issues. But you need some nexus, some sort of core set of functions that tends to lead or drive the others.

I think probably cabinet status will certainly enhance the ability of the EPA Administrator as public educator. It will certain enhance the ability of the EPA Administrator to speak with authority on a broader range of subjects than simply pollution control, and I think that is in the nature of the job. Whether it will make a big difference in his ability to get things done or not is going to depend finally on how much clout he has with the President, because in the final analysis where you are the administrator of an agency or a secretary of a cabinet department, if the President doesn't believe in what you are doing you are going to have a uphill battle because, frankly, as a regulator you are crossing everybody, and it is rare that you bring good news to the boss.

Chairman GLENN. You are right that a President interested in this or not interested in this is going to make all the difference in the world. By moving this to cabinet status, and doing it officially and by law, we go at least part way toward institutionalizing this enough so that it is going to be there for whatever President is in office, where just an agency can be a little more ignored by a President, perhaps, in budgets and by OMB in putting budgets together, than would otherwise be the case. So I think we have that advantage.

One of the things we ran into, and I would appreciate other comments on this, when you get into what you are going to fold into this organization you run into a real buzz saw in some of the entrenched interests. I will be very frank about it, and I am sure some people—I don't want anybody in the room to take umbrage at this—but when we started looking at whether we would fold CEQ into this, there are a lot entrenched interests, a lot of environmental groups that work very closely with CEQ. You start messing around with CEQ and you really stir up some vibrations in a very big hurry.

Then we looked at a number of others, NOAA and NRC, and everybody else that is involved with some major part of the environment, and it became a massive job. If you try and take functions out of different agencies and put them under one EPA head, it gets to be bigger than we can really handle.

Now, I don't want to go through the old Washington dodge of just forming another Committee, but we felt that this was important enough that a Presidential Commission, which we call for in Title V, the Commission on Improving Environmental Protection, was the way we would approach this. There are so many different functions of Government, and if we want to leave CEQ separate after a study of this thing, that's all right with me. I just want to make sure we are getting the right job done with EPA. If they recommend folding CEQ in after a real study of this, that is something that we have to consider at that time. The same goes for NOAA, NRC, and other organizations that we would have to consider.

Is there any other way you would go at this from your background and from your experience? Is a mission commission the best way to do this? Do you approve of that, or do you suggest that while this thing is aborning that we take all these other groups and just mandate them into this organization? How would you approach that?

Mr. COSTLE. Well, I think a commission is a good way to go. There are two things I like about the commission in this bill. One is its structure. It includes the Congress as a part of the commission, which means there is a built in constituency for its recommendations once it is done. In other words, you have got some special credibility when you come back to the Congress with recommendations, because these are essentially organizational issues that effect Committee structures on the Hill, as well as the functioning of the Executive Branch.

The other thing I like about it, you know EPA has been—I remember something Bill Ruckelshaus said to me very early on in his first term as EPA Administrator, he said running EPA is a little like trying to perform an appendectomy while running the 100-yard dash. And that has not changed much, because its mission has expanded, new laws have been passed, there has always been a tug of war over whether adequate resources have been put in place for it to carry out its mission. But I think it is probably too much entirely to ask the surgeon in that circumstance to also sit back and reflect on the surgical procedure.

I think EPA has struggled mightily to look ahead, to be prospective, to formulate policy, but they have been so preoccupied in that they have never really put in place, nor have we elsewhere, an adequate mechanism for reflecting on whether what we have done is working. In other words, what of these programs really works and why and if we were to do it again would we do it differently? There is a lot of thought that it is time to look at an organic statute, for example, to learn from the improvisation of the first decade and a half of legislative and administrative improvisation.

The reality is we have been at the business of improvisation, and it hasn't finished, we are still going to be improvising. But we need an opportunity to step back and reflect. And that is not only form, in term of organization, but it is also function; what is it we are really asking EPA to do.

We have loaded very heavy command and control type regulatory programs on that agency and too often I think the assumption is that we are going to be able to put an environmental cop on every corner, and we are clearly not going to be able to do that. So I think we need to open up to some new ideas of how to get the environmental mission accomplished, and I think particularly a bipartisan commission, and one that involves the Congress and the Executive Branch, is a good way to begin to do that.

Chairman GLENN. What do you think about our Bureau of Environmental Statistics? Have you looked at that?

Mr. COSTLE. I have looked at the bill and the statement of intention about what that it is to do. I think we continue to live in an environmental policy world of evolving and growing knowledge, but the facts never seem to stand still. And one of the great frustrations has always been, gee, couldn't we find a "Good Housekeeping" seal to put on a set of facts; find me a friendly set of facts and I will fashion a correct policy.

I think in some sense the notion of having somebody to hold accountable for sorting environmental statistics, for gathering, for being able to speak objectively and frankly and candidly and nonpolitically about what they say and what they don't—perhaps more importantly what they don't say—is very important. And I think in that respect I would very much endorse the idea.

I think you raise a certain question at this point though about what the function of the CEQ will be in terms of preparing their report. Now, that has been moot until recently, but with Mike Deland as the new CEQ chairman there clearly are efforts underway to resuscitate that organization. But I think that in the process of finalizing this legislation some attention should be paid to spelling out specifically what would be the relationship between the statistical entity and the CEQ and the CEQ's responsibility to prepare an annual report.

That report for them was their handle on reality. I mean, one of the truisms about Government organization, if you are at the White House and you are just an advocate, you soon find your advice discounted. If you are going to be a player at the table you have got to stand astride a decision making flow of some kind. You have to have a chip to put on that table, and their chip has always been their larger perspective that is informed by the process of preparing that annual report. And it gives them, therefore, a more Presidential perspective on these issues and less of an agency advocate perspective. So I think, depending on what you eventually want to do with the CEQ, how you resolve this issue could be very important.

Chairman GLENN. Well, we are not trying to make this Bureau of Environmental Statistics a replacement for CEQ. We will leave it up to the commission to sort out some of these roles and missions, if there is such a sorting out to be done. We are not proposing in this to change any CEQ responsibilities right now. But as you are well aware, certainly, you can prove almost anything in the environmental field you want to prove by picking up somebody's report some place and some group's analysis of it. You can prove your point, turn right around, pick up somebody else's report, put on your different hat, turn the hat around and prove just the opposite if you want to. That maybe overstates it a little bit, but not much. Basically, we don't know who to rely on and what figures to go with in trying to form legislation, and that is what we are trying to get at.

What we would like to eventually have is somebody that is relied upon, whether it is CEQ or this Bureau of Environmental Statistics, that would be like the Bureau of Labor Statistics is over at Labor, which is taken as the definitive thing and monumental monetary and fiscal policy for the Government would be made based in large amount on what they came up with. Their figures would be awaited, Wall Street would look at them and they would be very carefully judged and so on.

I don't know whether we will ever be able to come up with something that definitive, but we would like to at least head in that direction so that we are all singing out of the same hymn book when we give figures and we can hopefully rely on them. I don't know whether we will ever reach that or not.

One other question. We have a bill before the Committee that sets up a Chief Financial Officer of Government. Each department and agency would in turn have a chief financial officer to manage the money flow and supplies and do an annual audit, something that we don't do now. And it is almost unbelievable that we don't do that in Government.

Would you comment on the provision for a Chief Financial Officer, should a CFO be a career-reserved position, and what should the individual's duties be? Do you have an observation on that?

Mr. COSTLE. Well, I confess, Mr. Chairman, I haven't looked at that portion of the bill closely, but I have talked to some of the people who have spent some time on that and I like the idea. I think it depends an awful lot on spelling out the mission pretty carefully, but the business of Government is just complicated enough now in terms of managing the flow of money that, and as we move more and more toward user fee systems and—I mean, it just gets more complicated—that the search for efficiency in that really is never ending. And I think that, as in all things, accountability is finally what makes things happen, and I think to the extent that you can fix accountability for that in one place you have improved the chances that you are going to get some efficiency, and at least you know where to go to ask the questions.

Chairman GLENN. Well, I appreciate that. I have no further questions. There may be additional questions other Senators will have after they review the hearing record. We would appreciate your response to those so that it can be included as part of the Committee record. We appreciate your being with us today.

Mr. COSTLE. Thank you, Mr. Chairman. I will be happy to be whatever help I can.

Chairman GLENN Thank you much.

The next witness is Ray Kline, President of the National Academy of Public Administration, accompanied by Richard Wegman—I don't know if he is here yet—attorney at law, Wegman and Hoff, and Howard Messner of the National Academy of Public Administration, NAPA.

Mr. Kline and Mr. Messner, we appreciate very much your willingness to cooperate yesterday. We got a little tight because of the votes and we appreciate your coming back today and we look forward to your testimony.

There is Mr. Wegman, if you will wait. Talk about just in time, there he is. Mr. Wegman, as I said yesterday, was a former staff director of this Committee for many years when I first came on it, and he did a superb job back then and we were sorry to see him go wrong by going into the private sector, but we welcome him back from time to time for testimony.

Mr. WEGMAN. Thank you very much Senator. It is good to be here, and it is always a little bit strange to sit on this side of the witness table.

TESTIMONY OF RAY KLINE, PRESIDENT, NATIONAL ACADEMY OF PUBLIC ADMINISTRATION,[1] ACCOMPANIED BY RICHARD A. WEGMAN, ATTORNEY AT LAW, WEGMAN & HOFF, AND HOWARD MESSNER, NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

Mr. KLINE. It is our pleasure to appear, Mr. Chairman. I would like to say a few more words about my companions at the table—both Fellows of the Academy.

Howard Messner brings to the table quite a set of credentials in terms of addressing this particular issue. He is a former Assistant Administrator for Administration and Resources Management of EPA. And during his long stint in the Office of Management and Budget he worked long and hard on lots of key management issues on behalf of various presidents in past years. He is also a former panel member of the Academy's evaluation of VA becoming a department, and therefore in terms of addressing the criteria he was front and center in the evaluation that was conducted in the Academy and may be of some value today.

Mr. Wegman, also on behalf of the Academy, was panel chairman of the study for the Congressional Oversight of Regulatory Agencies, and one of the agencies we looked at specifically there was the EPA. We thought he would have some perspectives that would be of value to the Committee in that regard.

With the agreement of the Chairman, we will place our statement in the record, and what I would like to do is summarize the comments, the highlights.

Chairman GLENN. The statement will be included in the record in its entirety.

Mr. KLINE. We are pleased to have the opportunity to offer views on S. 2006, the bill to elevate the EPA to cabinet status. Two years ago this Committee contracted with the Academy to evaluate proposals to establish a Department of Veterans Affairs, and the Academy panel developed 14 criteria to evaluate whether VA should be elevated to a cabinet department. Part of our report also included some public management guidelines for the structure of cabinet departments. Mr. Chairman, we have a copy of this report with us which can be made available.

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[1] See p. 434 for Mr. Kline's prepared statement.

Chairman GLENN. We would like to have that.

Mr. KLINE. Your letter of January 26, 1990 asked us to give you our thoughts about the bureaucratic and managerial effects of elevating EPA to cabinet status, with particular regard to the NAPA criteria developed for the VA. Attached to my statement is a list of these criteria, which we have customized somewhat to have it fit the EPA circumstance.

In preparing this testimony, in addition to the gentlemen at the table, we did consult with other members of our VA panel, and also Fellows of the Academy who have been very active programmatically in the EPA in past years, William Ruckelshaus, Lee Thomas, and Alvin Alm. We hope to reflect some of their commentary during the course of the discussion.

On elevating EPA to cabinet status, we support the establishment of a Department of the Environment. Both domestic and global environmental problems now are driving the need to strengthen the U.S. Government's capacity to grapple successfully with these problems. To date, efforts have been dominated by environmental media-oriented public policy formulation with relatively little thought to integrated strategic approaches. The National Environmental Policy Act of 1970 attempted to find an effective way to impose policy control over numerous departments and agencies engaged in environmental activity. The initial response was to create the Council on Environmental Quality, followed by creation, by reorganization plan of EPA in July 1970.

In the distribution of responsibilities, CEQ would focus on establishing broad environmental policies and EPA would focus on setting and enforcing pollution control standards, a distinction which we believe was blurred almost from the outset. From its beginning EPA had to decide what would be a proper integration of a variety of research, monitoring, standard setting, enforcement, public works, and grant activities. Needless to say, the desire of early EPA leadership to respond quickly to public demand for action led to a very major emphasis on enforcement. The consequences for the agency's other programs and its capacity to plan and implement strategically to achieve broad national goals are evident almost 20 years later and have led to the matter under consideration today.

Creating this new department provides an opportunity for establishing strategic national approaches and achieving measurable results. It is essential, however, that Congress and the President go beyond mere restructuring. Dealing effectively with other governments and international bodies, strengthening environmental research and development, and finding effective multimedia approaches for preserving and protecting the environment all require innovative and energetic initiatives. Any realignment of institutional roles initiated by Congress, the White House, or the commission provided in Title V would benefit from a thorough review of the basic strategies for meeting both domestic and international environmental objectives. Under its Congressional charter the Academy is certainly pleased to lend its services to the Committee in this regard.

Turning our attention to the criteria that we developed in the VA study, and applying them to the EPA, we can categorize those criteria, numbering 14, into certain sets. Our first 5 criteria relate to the establishment of a national priority for the agency's programs. We believe that all 5 criteria in this category support the creation of a department. Briefly outlined, first, there is no question that EPA and its programs serve a broad national goal or purpose. Second, significant national needs are not now being adequately addressed, and we think that those needs could be more directly attended by creating such a department.

Third, there is growing recognition that more needs to be done locally, nationally and internationally to preserve and protect the environment. For example, the President has requested a 12 percent increase in EPA's operating budget for fiscal year 1991. Fourth, creating a Department of the Environment offers the opportunity to improve environmental program coordination, strengthen the talent base, and increase program visibility. And, finally, under this category, we believe that having a department certainly provides a stronger position of advocacy of program needs in the environmental area.

A second category addresses improving program effectiveness and efficiency. Six NAPA criteria address the opportunities in this particular area. The key determinants of program effectiveness do not depend, we believe, solely on the Act authorizing departmental status. So satisfaction of the 6 criteria is conditional on actions beyond departmental status. Program effectiveness depends on many other factors: the availability of resources, the laws and regulations authorizing the programs, the relationships with state and local governments and the private sector, the quality and motivation of the leadership and staff. We believe that establishing a department would have a salutary effect on addressing these other factors.

To maximize program effectiveness, we think the Congress should move to streamline and integrate environmental laws and consolidate programs and functions which are now scattered throughout other departments and agencies in the Executive Branch. S. 2006 transfers no programs in or out of the new department. Therefore, we support the commission to be established under Title V of the bill, but we urge that its final report be available one year after enactment instead of 2 years; time's a'wasting.

Chairman GLENN. Do you think you can look at all the functions of Government and make the decisions in one year?

Mr. KLINE. We think they ought to hustle, sir, there is need for a sense of urgency about it.

Chairman GLENN. I agree with you as far as the urgency. We put it out there to give plenty of time so it wouldn't be just a lick and a promise. Maybe 2 years is too much. That is something we will have to look at.

Mr. KLINE. As to whether there are significant structural, management or operational weaknesses in EPA which could be more easily corrected by elevation to a cabinet department, Section 204 authorizes the appointment of up to 10 assistant secretaries and gives the Secretary flexibility in determining the responsibilities each will have. This is going to be very useful in effecting any needed organizational changes within the new department, and we applaud that feature of flexibility.

On the question of external barriers and impediments to timely decision making and executive action, the focus here is on the varied regulatory strategies dictated by Congress and OMB involvement in the execution of EPA programs. However, S. 2006 does not make any changes in these requirements. Again, the commission established by Title V would have this job. It is possible that cabinet status would give EPA additional leverage in dealing with the OMB.

The new presidential appointments established by S. 2006 might help in attracting skilled leadership. We believe that a cabinet secretary position is customarily more attractive to senior executive talent from outside Government than is the head of an agency, and we think that that same rationale may well apply to subcabinet line officers who would be presidential appointees.

On the matter of improving Federal policy integration, another criterion, a key question is whether establishing this new department would facilitate more uniform achievement of broad national policy goals. Because no changes would be made in the statutory responsibilities of other departments and agencies, it is hard to see how the elevation in and of itself would meet this criterion. Again, the final answer here could depend on the results that come out of the work of the commission.

We are concerned that the establishment of an Interagency Committee on Global Environmental Change in the Executive Office of the President may further fragment the policy making apparatus. The EOP already has a CEQ, an Office of Science and Technology Policy, two cabinet councils, and an OMB, which play important roles here. The addition of yet another statutory coordinating committee could further confuse the issue. A major Academy panel report prepared during the last presidential transition expressed concern about the growth of special purpose offices in the Executive Office of the President, such as the CEQ, which the panel said contribute little to fulfilling the President's broad responsibilities for national policy making and implementation.

If there is an Interagency Committee, the Secretary of the Environment should be designated as chair of that committee, and Section 203(b) should make it clear that Congress expects the Secretary to exercise leadership in coordinating environmental programs across Government. We would expect the commission to be established under Title V to take a careful look at the policy making apparatus across Government, including the CEQ.

On the question of whether the elevation of EPA would weaken or strengthen the cabinet and the EOP as a policy making aid to the President, we believe the addition of a 15th department would have little impact on how the cabinet actually functions as a policy making body.

Insofar as improving accountability to elected public officials, we believe the impact upon accountability to the President, oversight in the Executive Branch, and oversight by Congress would be negligible. Numerous Congressional committees are involved now in legislation and oversight of EPA programs. The list published by EPA in 1987 shows a total of 90 Congressional committees and subcommittees exercising jurisdiction over the agency, and I have a hunch that that is enough oversight to guarantee a sense of accountability. In my last job of running GSA, we interacted with 26 committees. I thought that was heavy, and this is more than three times as many, so I think the supervision is there. Congress may want to use the occasion of establishing this department to examine its own dispersal of jurisdiction over environmental programs.

Having talked about the criteria, I would now like to comment briefly on several sections of S. 2006 relating to how the new department and its officials would function. First, the Executive Secretary. Section 203(d) authorizes establishment of an Executive Secretary in the Office of the Secretary but does not define the functions. Our guidelines call for clear and direct lines of authority between the Secretary and senior line officers. We think it should be made clear that the Executive Secretary, if established, would not perform line functions or otherwise intervene on substantive issues requiring decisions of action by the Secretary or Deputy Secretary.

On the Assistant Secretary for Administration and chief financial officer, Section 204(e) of the bill provides for the Secretary to designate the assistant secretary whose responsibilities include financial management as the Department's chief financial officer. It appears these responsibilities would go to an Assistant Secretary for Administration, similar to the current Assistant EPA Administrator for Administration and Resources Management.

In our 1984 report for EPA, "Steps Toward a Stable Future," our panel, which included people like Frank Carlucci, Robert Fri and John Gardner, recommended that this position be designated as SES career-reserved. This addition of CFO responsibility buttresses, we believe, the argument for similarly making the Assistant Secretary for Administration a career-reserved position. As an alternative, the Committee may want to consider establishing a separate career-reserved position for chief financial officer. Last fall, Congress established a chief financial officer by statute for the Department of Housing and Urban Development whose duties relate solely to financial management.

At the request of HUD, the Academy recently completed work defining the functions, organization, locations and staffing for the CFO and comptrollers in HUD's operating units. Our study team recommended that the CFO be a career-reserved position reporting directly to the HUD Secretary. Senator Kemp accepted these and other recommendations made by the study team in January and they now in the process of being implemented.

On the issue of Assistant Secretary for Research and Development, our 1984 report on EPA recommended that the EPA Assistant Administrator for R&D either be designated as an SES career-reserved position or be nominated by the President and confirmed by the Senate for a fixed term of not less than 5 years. Section 204(a) of S. 2006 lists R&D as one of the responsibilities to be assigned an assistant secretary. As was the case for EPA, we believe this position should have a fixed term or be a career appointment.

On the reconfirmation of EPA appointees, S. 2006 authorizes EPA officials to exercise assistant secretary responsibilities only until such responsibilities are assigned to an individual appointed to an assistant secretary position. Given the short time the current leadership team has been in place at EPA, we suggest that current officials asked to assume duties similar to those they now hold in the new department not be required to be reappointed.

On the matter of deputy assistant secretaries, Section 205 of S. 2006 authorizes the establishment of deputy assistant secretary positions, at least one half of which are to be career-reserved. We are concerned about the impact of these additional political positions on the continuity and technical expertise needed for effective program leadership. Our 1984 report pointed out that there were already a comparatively large number of political appointees in EPA, and we urge today that all the positions at the deputy assistant secretary level remain in the career-reserved category.

On miscellaneous employment restrictions, Section 209(a) of S. 2006 sets a limit of 12 percent on the number of non-career SES positions. H.R. 3487 sets the limit at 10 percent, the same as the current Government-wide limit. We believe the limit should be no more than 10 percent.

In conclusion, we believe there is merit in establishing a Department of the Environment, based principally on the growing environmental challenges facing the nation and the world; the need to provide strategic, coordinated approaches to meet these challenges; and the opportunity this legislation provides to strengthen the responsible institutions of Government in the field. We urge the Committee to take full advantage of the opportunity, and we are prepared to assist in any way we can.

Mr. Chairman, this concludes my statement and we would be pleased to try to respond to any of your questions.

Chairman GLENN. Thank you very much. Those are excellent comments and we will certainly consider all of the things that you have suggested.

Let me ask a rather broad question first. Do you think that in the new international environment that EPA will be playing in more and more, there is any new authority that we need to give to a Department of the Environment to carry out its international mission? In those missions we normally provide technical help and financial assistance, and we are moving more and more into that area.

Are the current authorities of EPA adequate to perform that international function?

Mr. KLINE. Certainly in the area of technical assistance we thought there ought to be some attention paid to additional authorities in that regard. Beyond that, we do not have too much to offer beyond what the Committee heard yesterday from the witnesses, but perhaps other fellows at the table would like to comment.

Chairman GLENN. Mr. Messner?

Mr. MESSNER. Thank you. Twenty years ago when the agency began, it is interesting that the international function was not made an assistant administrator's role, it was given a slightly lower level. And over these years as the mission has increased for EPA, the status of that job has become more important. It had been made an assistant administrator-ship in this administration, and I think when and if the agency is raised to departmental rank, that that assistant secretary-ship will play a very important role in increasing the prestige of EPA in the international arena.

Chairman GLENN. Mr. Wegman, did you have a comment?

Mr. WEGMAN. No, sir.

Chairman GLENN. You mentioned the technical aspects of this in passing. This agency will be very much involved with technical and scientific data and the collection and analysis of it. Now, we are in a bind, as you know, because of our inability to deal with our pay problems in Government, at least so far, and it doesn't look like we are improving our performance much in that area.

This makes it very difficult to get good people into Government. I guess my question is not just an EPA problem, but we are contracting out more and more to which eventually probably becomes more expensive than if we hired the expertise in-house, in Government, to do the same job.

NIH has had to do that a lot. Over the last 10 years it has developed a similar system, because they cannot pay people enough to get them out of industry and into Government. Do you see that as a major problem here with EPA, and would you favor getting the expertise on the outside, or do you think we can develop that in-house? Because we are going to have to develop a lot of scientific expertise to carry out the mission of a upgraded EPA.

Mr. KLINE. Yes, sir. My personal view is that it is going to turn out to be one of the most fundamental challenges facing the new department. The point came up a number of times yesterday about contracting out, and I would have a generalized comment about it that runs like this: the Academy has been looking at a number of R&D agencies across the Government at their invitation in terms of some of the problems they are having on building capabilities and retaining those capabilities. In addition to that, I spent a third of my life in NASA and saw the issue first hand from field center level on up to the headquarters. Some of these problems are attendant there as well.

Every one talks about the unavailability of resources to do what needs to be done, that we are in a tight economic squeeze. Well, having said that, when you look at the resources problem in the different agencies, there are shortages in both dollars and people. And I have found that in the cultures of the Government, especially in the R&D world, that in the relative shortage between the two there are more dollars available than there are FTE, than there are people, because of arbitrary constraints based on numbers.

I have found, at the risk of over-generalizing the challenge of technical program managers, that there two things that drive them out of house in spending those dollars and doing more work by consultant. The first is the arbitrary ceilings on FTE, the inability to hire people into Government. And the second, the point that you addressed, is the inability to hire the caliber of talent needed for the missions due to current salary levels and the unavailability of other attractive inducements to bring people into Government. To me those are the primary drivers that are taking people out of house.

I think that in one sense people address this as a Government-wide kind of issue. But having gotten a little impatient on doing something about it, I have become a culturist about these key cultures of Government. And if it cannot be resolved in a general across-the-board way, I say "attaboy" to those cultures who go to seek their own relief for their own problems to meet the missions for which those departments and agencies have been created.

With the magnitude of this issue in the environmental area, to see Government performance suffer due to constraints to get those capabilities on board and in the Government to operate in the Government's behalf, when you look at the massive complexity in the environmental area that we are stepping into, this is not a matter that can be ignored. It has got to be attended, I think, straight on and early on.

Chairman GLENN. It is one that this Committee has a real problem with. Some of these areas are our primary jurisdiction in this Committee. I have tended to resist the piecemeal programs where somebody squeals louder than somebody else a particular year so there is a piece of legislation put in that says, well, we will give this special treatment to NIH. You also mentioned NASA. NASA comes over and says, we are really in a bind here and they lobby very, very hard with a lot of people to get special relief for their agency, and I understand that.

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What I have hoped to do is get the structure set up so that all the different agencies of Government that need good people to would have the opportunity to do it rather than doing this on a piecemeal basis just by who squeals the loudest. At that point I guess we haven't accomplished anything so we wind up with more contracting out. And frankly, I don't see any option right now but to let the agencies of Government contract out. If they cannot get the expertise in-house at the pay scales that the Government is using, for whatever reasons right now, then I don't see that we have any option but to let them contract out. I won't go so far as to encourage it, but that is essentially what we are doing.

Mr. Wegman do you have any comments on that? You have watched this from inside and outside.

Mr. WEGMAN. Well, I agree with you, Senator, I don't think there is much alternative to that today.

Coming back to a point you raised earlier though, I do think EPA has so many missions that have been thrust upon it the clean air area, clean water, Superfund, toxic waste, solid waste, there are clearly many more missions that Congress has asked EPA to handle than there is money to carry it out. And therefore I think it is critical that there be an understanding between EPA and the Congress about setting goals and priorities. EPA is clearly going to have to decide what it is going to do with the resources available to it. And that is one of the main reasons why I think it is so important that there be a department and there be a consolidation of functions within a department, and hopefully down the road—and I realize this is politically very difficult to do—there can be a consolidation of oversight functions on the Hill.

Right now, as Ray pointed out, EPA responds to something like 34 different Senate subcommittees and 56 different House subcommittees, and clearly EPA is torn in a lot of different directions. If you can work towards consolidating both the Executive Branch functions and the oversight functions up here, I think the Academy believes, and I certainly believe, that it will be a lot easier for EPA to set its goals and priorities and to carry them out, and there won't be surprises down the road where Congress then says, well, gee, we gave you this particular function and you really haven't carried it out.

I think that is one of the major, most significant achievements that you can realize here by setting up a department. And then hopefully down the road, with the help of the new commission you are establishing, you can decide how to consolidate functions within the department and look at the Congressional oversight functions as well.

Chairman **Glenn**. Mr. Messner.

Mr. **Messner**. Thank you. When EPA was put together, one of the aspirations was to attract for the environmental field the best talent the country had available. And Bill Ruckelshaus talked about the same kind of partnership between the internal staff of the Government and the private sector staff, the university staff that would be made available that Jim Webb talked about when I was a young assistant to him in the early days of NASA.

What Senator Pryor said yesterday is of great concern, that is, a mixing of functions between the ones that we want the private sector to participate in and the ones that the public holds the Government officials accountable for. I think in the sorting out process that you do in creating this department you can create a basis for a healthy relationship by building ground rules for a good in-house staff, a good technical staff, competent career people, some good political leadership, but then encourage a partnership with the kinds of private sector talents that can really make this environment business go.

NASA when I was there had 24,000 in-house employees. It had half a million contractor employees. And I think the partnership worked there. I think Government roles were clear. They have been tested many times since. I have the same ambition for EPA. So I didn't want to just leave sort of a defensive feeling in the Committee's mind that we are trying to build some kind of a shield against private sector involvement in EPA. Quite the opposite. It is something we are seeking.

Mr. **Kline**. Mr. Chairman, may I tack on to that? The important issue is that—accepting that that is the way many things are done and should be done—nevertheless, the point you are raising relates to in-house competence. The people in-house have got to know what they are doing in terms of the contracted effort they are managing. The in-house capabilities have got to be built upon people who bring to the job that kind of technical expertise that they know how to lay out the plans, how to get them done, understand what they are seeing from contractors in terms of the results, and them plotting things for the future.

It is no small task, and I agree with your observation, sir, made earlier about concern about the need for those kind of capabilities and how to bring that kind of talent in. The ideal solution is do it across the board, government-wide. But the past years but have been quite disappointing for lack of progress. As we look for ways to move the entire structure together, are we really moving at all? And I, say rather than fall on that sword, I just applaud people who are trying to get their problems solved in some other way.

Chairman GLENN. I was concerned about the technical aspects of how the EPA would operate and how they get their information, who would direct their research and things like that, and whether we can get the good people.

Now, in the administration of this, some of this in the past has been shoveled downhill to states to execute and monitor. And I think some of the administration of EPA may be able to be carried out that way, with our de-reg environment and the new federalism and all of these things that we have seen developed over a number of years. So that may be a reasonably solvable problem, but I am not sure where the technical aspects should be handled. They can't be farmed out to the states.

Put another way, as far as overall management of this goes, you cannot contract out the overall management of it and tell somebody else to manage this thing so you can pay them more money to get good people. You still have to have an attractive enough Government position that they can oversee the whole process and administer it properly and do it well. So we are still up against that problem, and that is not something that we are going to be able to solve this morning I am sure, but it is something we are going to have to address in the future.

One other thing here. We gave very careful consideration to making the Secretary of the Environment the chair of the Interagency Committee on Global Environmental Change. But in negotiating this with the administration they claimed that there was a constitutional issue involved here in Congress requiring the President to name a specific chair to an Executive Branch Committee. And, in fact, the discussions there were such that I think it would have been questionable whether the President would endorse the bill unless he was given the flexibility to name the Chairman.

Do you have a view on this? This is a traditional field of conflict between the Executive and legislative branches; it is not new. And I know we are not going to solve this constitutional problem this morning, but do, any of you have comments on that?

Mr. KLINE. I don't know if there is a constitutional proscription. I better turn it over to our lawyer here and maybe he can advise us on that.

Chairman GLENN. Mr. Wegman.

Mr. WEGMAN. Well, if we could supply for the record, I think it would be interesting to take a look and see whether there are some precedents for doing that sort of thing.[1]

Chairman GLENN. Fine. We would appreciate that.

Mr. WEGMAN. But since you raised that point, Senator, I wonder if I could just add one brief comment. I know your time is very short, but since one of the major purposes, as I understand it, of this legislation is to give the Secretary of the Environment a little bit more clout within the administration and within the cabinet councils on environmental issues, I wonder whether you might want to consider inserting in the legislation, perhaps in the findings or purposes clauses, a statement that the new Secretary of Environment will in fact have the lead role in carrying out and administering environmental policy programs and functions within the Executive Branch.

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[1] See p. 610.

I didn't see anything in the findings or purposes section, and that might be something that down the road a new Secretary of Environment could point to if he gets into a conflict with other departments on carrying out his mission.

Chairman GLENN. I think that is good to look at. I guess I was presuming that by the very elevation we were putting him in charge of those things, but maybe we need to spell that out in more detail than it has been spelled out so far.

Mr. KLINE. Mr. Chairman, you mentioned the intergovernmental aspect down through the States. Last fall we had our Academy fall program built on the theme of what has happened in federalism during the last 10 years, and one of our case studies was environmental programs. We had the senior state environmental director from the State of Georgia come by to speak on behalf of the states. We have that statement back in the office. I would like to make that available to the Committee.

Chairman GLENN. Good.

Mr. KLINE. He reported an enormous frustration or the lack of clarity of roles between the Federal Government and what is expected of states, with duplication all over the place. It is a very succinct statement, but it may be grist for your mill, sir, in terms of what you may ask the commission to do in terms of looking at that particular dimension of the problem.

Chairman GLENN. Good. We would like very much to have that. Mr. Wegman.

Mr. WEGMAN. I am sorry. I wanted to raise another point.

Chairman GLENN. Fine. Let me just say, I have seen this from both ends, too. Way back before I was in the Senate Governor Gilligan in Ohio asked me to head up an environmental task force. Out of that study which we conducted over a number of months resulted at least in part in Ohio establishing their EPA back at that time. This was sometime ago, but I know we ran into all of this at that time as to what we were going to do versus what the Federal Government was expected to and it is a real push and haul and push and tug, and we would appreciate having the study that you have already done.

Mr. WEGMAN. Senator, I just wanted to add an additional comment on the question you asked Ray during his testimony about the time limits for the commission to complete its function, and I did want to mention that I did work with the Carter Agenda for the 1980's Commission, which had a very broad responsibility, certainly broader than the responsibilities that are being thrust upon this commission, and that commission did complete its work within 12 months. And incidentally, completed its work with a budget of something under $3 million. So I certainly would think that the kinds of figures you have got in the bill for the commission are more than adequate.

Chairman GLENN. All right, good. We may want to reconsider our time period on that and we will look at that one.

We appreciate very much your testimony this morning and also, in particular, your work last year when we were considering the VA move up to cabinet status, and as we found out at that time, we had no real criteria that ever had been set down for what things we should really look at in elevation to cabinet status. Your criteria have gone a long way in helping us judge some of those things and we appreciate your efforts in that area.

We would appreciate any response to additional questions that other members of the Committee may wish to submit to you for writing and they will be included in the record.

Mr. **WEGMAN**. We will be glad to think about that constitutional issue you raised.

Chairman **GLENN**. Think about that one and get back to us on that. That has been around for a long, long time and it is probably going to still be around long after we hopefully elevate EPA to cabinet status, because it is one that we ran into as a minor block here in our discussions with the White House already.

Thank you very much.

Our next panel is Sharon Newsome, Vice President for Resource Conservation of the National Wildlife Federation; Thomas B. Stoel, Jr., Director of International Programs of the Natural Resources Defense Council; Frederick Krupp, Environmental Defense Fund; Michael McCloskey, Sierra Club; and Michael S. Clark, Friends of the Earth.

Welcome to the table. We will take the witnesses in the order in which I have them listed. Sharon, if you would lead off for us this morning, we would appreciate it.

TESTIMONY OF SHARON NEWSOME, VICE PRESIDENT FOR RESOURCE CONSERVATION, NATIONAL WILDLIFE FEDERATION [1]

Ms. **NEWSOME**. Thank you, Mr. Chairman. My name is Sharon Newsome. I am Vice President for Resources Conservation at the National Wildlife Federation, and I am here on behalf of our over 5.8 million members and supporters who enthusiastically support and endorse your bill, the Department of the Environment Act.

We believe there are six reasons why EPA should be elevated to cabinet status. EPA today is dealing with tougher environmental problems. The scope and severity of environmental concerns is now an international and global problem and issue. Two, elevating EPA will increase presidential involvement, certainly having Administrator Reilly at cabinet meetings is an important improvement over the past administration. However, Administrator Reilly still sits in cabinet meetings with his back to the wall and is not able to participate in the give and take of advice to the President, and we believe as a Secretary of the Environment that would be improved.

Third, this legislation will improve interaction with other agencies, and I know you are very well aware of the problems over many years with the Department of Defense and the Department of Energy and the really grave environmental problems that those two departments are now experiencing. In part, that is a result of the lack of status and the difference in protocol between the Secretary of Defense and a subcabinet administrator of the Environmental Protection Agency. So we hope that by having a Secretary of the Environment we will not continue to create the kinds of recalcitrance and resistance that we have had with some departments in the past.

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[1] See p. 447 for Ms. Newsome's prepared statement.

Fourth, environmental protection has become a national security issue and a global issue, and in international affairs protocol is very important. Now all other developed countries with the exception of Italy have ministers of the environment of cabinet rank, and we believe——

Chairman GLENN. I made that statement and we were called by the Italian ambassador who says they not only have one, but they have two ministers that deal with the environment now.

Ms. NEWSOME. Well, let me correct that. All other developed countries have a minister of environment and we want and need one ourselves.

Fifth, EPA is handling a greater workload. They now administer 13 major laws, a number of minor laws, and they have a larger budget and staff than several other departments. And finally, we believe EPA does meet the criteria for elevation to cabinet status and therefore should be a member of the cabinet.

The National Wildlife Federation supports S. 2006. We do, however, think there are a few areas in which it could be strengthened. One would be to add an Office of Enforcement. Currently enforcement is handled primarily by the regions. The guidelines and guidance differ among regions. There is no central oversight in the Washington, D.C. office, and we believe that on Office of Enforcement in Washington would be an important improvement.

We also strongly support the establishment of a Bureau of Environmental Statistics that is called for in your bill. However, we would like to see language added that would assure that the public would have access to that data. The data in computerized form, when available from EPA, has been extremely important in making sure industry was doing the job it ought to be doing, and having that accessible to the public can help EPA do its job.

We also are very supportive of the provisions in S. 2006 which would increase EPA and Government attention to global environmental issues. Our only major substantive concern with your bill, sir, is with the Commission on Improving Environmental Protection. While the goal of improving management and the structure of environmental concerns within the Government is important. We are very concerned about this commission taking over the role of looking at substantive environmental law. We believe that role is best served by Congress and should not be a function of this commission.

And finally, we would encourage you to add an ombudsman's office to your legislation. As you know, disadvantaged portions of our population are often disproportionately impacted by environmental problems—by waste sites, by landfills—because they are unable to have the same influence over decision making, both locally, state and nationally. And we believe an Office of Ombudsman would help those groups more effectively influence the decision making process.

In conclusion, we support your legislation. We hope that we can be standing with you on April 22nd, Earth Day, and say that you have put in place the tool that is going to prepare this country to go forward in the decade of the environment.

Chairman GLENN. Thank you. We hope so too, and your entire statement will be included in the record, as all of your statements will as you summarize them.

Mr. Stoel, Director of International Programs, Natural Resources Defense Council.

TESTIMONY OF THOMAS B. STOEL, JR., DIRECTOR OF INTERNATIONAL PROGRAMS, NATURAL RESOURCES DEFENSE COUNCIL [1]

Mr. STOEL. Thank you, Mr. Chairman. I appreciate the opportunity to testify today.

I am Tom Stoel, a senior attorney at the Natural Resources Defense Council. In addition to my position at NRDC, I was the chair of "Project Blueprint," a cooperative effort of the U.S. environmental community that recommended to the Bush administration actions needed to address environmental problems.

Mr. Chairman, the 18 national environmental groups that came together in "Project Blueprint" strongly endorsed the idea that EPA should be elevated to cabinet status. The Natural Resources Defense Council certainly favors the creation of a new department. NRDC shares the views just expressed by the National Wildlife Federation concerning the reasons why we urgently need a new department. Rather than reiterating those arguments, which are contained in my written statement, I would like to focus the rest of this testimony on some points where NRDC feels the bill could be improved.

First, NRDC believes that Title II of the bill should be improved by adding a section concerning the department's international responsibilities. As illustrated by the current debate over global warming, these clearly will be among the most important functions of the new department. Yet EPA presently has no statutory mandate in this area. Unless one is provided, a Secretary of the Environment with relatively little interest in these issue, or a State Department eager to protect its turf, could unacceptably diminish the department's role.

Second, NRDC opposes Section 208(a)(5) of the bill, which would give the new Bureau on Environmental Statistics the principal responsibility for preparing the annual environmental quality report required under Section 201 of the National Environmental Policy Act.

This environmental policy report should be a Government-wide analysis of the environmental situation and what our Nation should do to address environmental problems. This involves review and recommendations concerning matters within the responsibility of many Federal agencies, ranging from Interior to Energy to Agriculture to Transportation to State and many others.

We believe this task, therefore, should not be given to just one of the agencies involved. Congress established the Council on Environmental Quality in the Executive Office of the President partly to perform this function. We believe the CEQ should continue to perform it, with strong assistance from the new bureau. Therefore,

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[1] See p. 468 for Mr. Stoel's prepared statement.

NRDC urges that the bill make clear that the bureau's role should be to assist, in cooperation with other agencies, in the preparation by CEQ of the environmental quality report.

Third, NRDC has suggestions concerning the proposed commission. We believe the findings in Section 501 concerning the adequacy of present environmental laws and structures are highly debatable and should be deleted, since they tend to pre-judge the outcome of the work of the commission. We think the main purpose of the commission should be to examine the organizational structure of the United States Government and assess whether changes in that structure are needed in view of the environmental challenges we face. We believe statutory changes should be considered only as they may be necessary to achieve these organizational goals.

Moreover, to avoid politicizing the commission, we suggest including a provision requiring that the members of the commission shall be individuals who have extensive experience at the Federal or state level in administering environmental programs. Composing the commission of individuals with this kind of experience should make it possible for the commission to operate much more cheaply than is proposed in the bill, since the members already will be familiar with the issues involved.

Finally, we join with other environmental groups in recommending that the department's budget must be sharply increased, beginning with a 25 percent real increase for fiscal 1991.

I would conclude, Mr. Chairman, by thanking you once again for the opportunity to testify. We hope that legislation elevating EPA to a cabinet department will soon become law and look forward to working with you to that end.

Thank you.

Chairman Glenn. Thank you very much, Mr. Stoel.

Mr. Krupp.

TESTIMONY OF FREDERIC D. KRUPP, EXECUTIVE DIRECTOR, ENVIRONMENTAL DEFENSE FUND [1]

Mr. Krupp. Thank you, Mr. Chairman. I am the Executive Director of the Environmental Defense Fund and on behalf of myself, EDF, and its 150,000 members I thank you for the opportunity to voice our own support to add to the ground swell of support for this act.

I also want to commend you, Mr. Chairman, for your own personal leadership in pressing this issue in your own meeting that you had with the President almost a year ago. I noted that when the President came out endorsing this particular idea of elevating EPA he very carefully chose the word, I want to "endorse" the idea. He did not say "propose," and I believe that is testimony to you and your leadership, Mr. Chairman, that the President reflected on his own support for your proposal in that way.

Formally changing EPA into a full department of Government and lifting the EPA Administrator into the President's cabinet are actions that are long overdue. In fact, the deafening silence of any opponents to this proposal and the absence of any opposition within Congress or U.S. industry should surprise none of us. The accelerating crush of public opinion dictates passage of this bill.

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[1] See p. 481 for Mr. Krupp's prepared statement.

President Bush has sent a healthy signal in endorsing the proposal to elevate EPA, but, of course, the real measure of the President's commitment to the environment will manifest itself in the way it has for every President since 1970, and that measure will be, does the President seek out the views and counsel of his top environmental advisor, does he lead by example, encouraging the other cabinet secretaries, senior staff, and industry leaders to do the same? Does the President build every decision that he makes and that his administration makes from ground up, beginning with the environment?

The Secretary of the Environment will have a significant interest in the decisions of virtually every other cabinet member, a fact obvious in regard to Energy, Interior, Commerce, Transportation, State, Agriculture, and Labor. That the consideration of every decision of each of these secretaries should begin with the environment is a principle whose time has arrived. The NEPA law, passed in the early 1970s, was merely the crude precursor of this principle. I don't think we need, Mr. Chairman, to look past Superfund and the Exxon Valdez for proof that environmental protection must enter decision making at the beginning or we will remain stuck with forever spending billions of dollars on the costly job of environmental clean-up.

In fact, to understand the notion that the environment must be part of every decision one need just try taking a dollar out of one's wallet. I see I have drawn a five. It is impossible to figure a way to spend a dollar, or $5, that won't have an affect on the environment. And that it is what I mean by saying that we have to factor the environment into every decision that we make.

By the end of your 3 days of hearings I suspect this Committee will have a rather poignant record of EPA's woes, the legacy of 8 years of presidential neglect and hostility from the last administration. I think it is very important that we recognize that if we merely change EPA into a department, the woes that have begot EPA will simply be transformed into the woes of the Department of the Environment.

First and foremost, the Department of the Environment will need adequate funding. Without more money to hire the economists, lawyers, and scientists and other professionals, the Department of the Environment will fail us. So let me join my colleagues who have endorsed the idea of raising EPA's operating budget by 25 percent in constant dollars by the end of 1990 and doubling the budget by the end of Mr. Bush's 4 years in office.

Secondly, a specific concern that I have is when we create a Bureau of Environmental Statistics I think we have to be careful not to just compile the statistics that are already out there, but also to recognize that in many cases we are collecting less data today than we were in the 1970s. In my home State of Connecticut the monitors have literally been turned off, due to lack of funding, on countless rivers and streams. Air pollution monitors have been turned off as though by blinding ourselves to the existence of troublesome data we can ignore the problem.

Chairman **Glenn**. Is this State or local monitoring, or Federal monitoring, or both?

Mr. **Krupp**. Both, and many of the State monitoring programs had been funded in the early 1970s by the Federal Government, and with the budgetary pressures many of these funds simply are not there.

Third, I do want to endorse the point just made by Tom Stoel of the Natural Resources Defense Council. On page 13 of your will in Section 5, the wording in the current draft I think does suggest, Mr. Chairman, a change from CEQ's current assignments, and the wording currently is, that the new department would be asked to prepare in cooperation with other Federal agencies, "preparing in cooperation with other Federal agencies," the report required under NEPA.

I think that the bill would be improved if it was made clear—even if this is currently the intent—if it was made clear by changing that wording, as Tom has suggested, to the department is asked to "assist the CEQ in the preparation of the annual report."

Mr. Chairman, as head of an environmental group, I very keenly feel that there is something very fundamental going on around the world. The power of public support is now driving a green engine, and who among us doesn't remember just Christmas when the events in Eastern Europe so poignantly showed us that the military-industrial cold war economy, which has been a dominating principle for the last 40 years, that economy has lost its engine. And it may just be that global warming has replaced the cold war as the unifying issue in the world.

Just as the threat of nuclear holocaust defined the economies and political cultures and national identities of the world for much of the last 40 years, so will the threat of uncontrollable environmental change define our next 40 years. Thirty years ago I remember as a first grader seeing the expression of grassroots interest in protecting people from nuclear holocaust expressed through the building of bomb shelters. Today my youngsters witness the grassroots expression of interest in environmental protection in the local supermarket parking lot collections of recyclables, and more curbside collection efforts around the country. And so we are entering a time where one set of concerns factually needs to yield to a set of environmental concerns.

In conclusion, I would just like to say that lifting EPA to cabinet-level status is a poignant message for the world to send, one we should be proud to send, but we will be in grave danger if we think that this change alone is enough. Clearly, as I know you recognize, Mr. Chairman, from your own statements on this issue, the United States must follow with bold action, committing this country not only to a cap but a reduction of its carbon dioxide emissions.

Thank you.

Chairman **Glenn**. Thank you very much.

Mr. Michael McCloskey of the Sierra Club.

TESTIMONY OF MICHAEL McCLOSKEY, SIERRA CLUB [1]

Mr. McCloskey. Thank you, Mr. Chairman. I am Michael McCloskey.

We at the Sierra Club strongly support elevating EPA to a cabinet department. We support your bill, S. 2006, and congratulate you for introducing it. In the interest of time, I will only touch upon a few of the points in my prepared statement.

We agree with the arguments others have put forth of the reasons for elevating EPA. Certainly environmental problems are as important as those addressed by many other existing departments such as Transportation, Veteran's Affairs, Energy, Agriculture, Commerce and so forth.

Indeed, EPA addresses fundamental questions of life and of death, our health and survival, and the conditions needed for all living things. Few departments address questions as fundamental as these.

Let me turn my attention to some of the specific provisions of this legislation. We think the bill has an excellent provision to establish a Bureau of Environmental Statistics. However, we do think it could be strengthened in a number of ways. We think it should not only be responsible for gathering data on pollution, but also on the exposure of people to pollutants.

Secondly, we think the bill should make it clear that the bureau should track trends in environmental quality by the different media and develop easily understood indices to express the overall findings for each of the media. We think development of such indices is the key to making the data intelligible to the public, and to policy makers, too.

Moreover, guidelines should be issued to make sure that the measures that are mentioned in Section 208[a][1] do not turn into a kind of unintentional standard setting process for allowable levels of pollution. This process we think should be handled by the policy branches of EPA and not by a bureau of statistics. The bureau should not get involved with controversial issues.

Further, the responsibility for economic information on projected costs of pollution control that are mentioned in Section 208[c][4] might be better left to policy makers in other parts of EPA. This is a function heavily influenced by policy concerns and might tend to politicize this neutral function in the bureau of statistics and call its objectivity into question.

Finally, as others have mentioned, we oppose transferring responsibility for preparing annual reports on the environment from CEQ to the bureau. The bureau should gather and publish data and point out trends, but the council should interpret this data in light of national policy and, indeed, recommend new policy as needed.

I might add that I was, as many others were, part of the "Project Blueprint" that Tom Stoel mentioned, and chaired a working group on CEQ. And we draw a clear distinction here. We thought that the trends and conditions responsibility that had been vested in CEQ ought to be turned over to EPA, but that CEQ should retain the job of interpreting that information and determining whether it called for some new policy and that that should be embodied in their annual report.

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[1] See p. 487 for Mr. McCloskey's prepared statement.

Let me turn to another question, the various commissions that this bill and the House bill calls for. We support the idea of a commission to look at whether other environmental programs in other departments and agencies should be transferred to this new Department of the Environment. Frankly, as we read the provision in Section 503 of your bill, we did not at first blush see that that is what was called for. It looked more like the focus was on integrating existing pollution laws. The House language seems much clearer to us on that point.

On the question of integrating the pollution laws, we think in theory that this is an interesting question, but we are concerned in practice that it could lead to redebating all of the provisions in existing law and running a long gauntlet of committee jurisdictions here. In the process, achievements in existing law might be jeopardized by the politics of such an ambitious undertaking. If such hurdles are to be faced, we have more interest in thoroughly reexamining the approaches to controlling pollution—we thought perhaps that is what you meant by institutional arrangements—to try to understand why we have made so little progress in standard setting.

Finally, if a commission along these lines is established, we think it would be better if each of the parties appointed an equal number of persons, such as five by the President and five by the Majority Leader in the Senate, and five by the House.

Let me just conclude by associating us also with the calls that others have made for a substantial increase in EPA funding; 25 percent is the number that we think is needed under the circumstances. Thank you.

Chairman GLENN. Thank you very much.

Mr. Michael Clark, Friends of the Earth.

TESTIMONY OF MICHAEL S. CLARK, FRIENDS OF THE EARTH [1]

Mr. CLARK. Thank you very much. My name is Michael Clark. I am the head of the newly merged Friends of the Earth Environmental Policy Institute and Oceanic Society. We are the U.S. arm of Friends of the Earth International, a worldwide environmental network with members in 38 countries.

Thank you for the opportunity to testify in support of your bill to elevate the EPA to a cabinet department. My message is short and sweet. EPA should be elevated to a cabinet department, but it must be given a budget sufficient to do its job. Unnecessary bureaucratic restraints imposed by the Office of Management and Budget must be removed, and it must be given new authority to deal with problems of noncompliance with environmental laws at Federal agencies.

In regard to the proposed budget, President Bush has proposed a budget which is only 8 percent above that urged by President Reagan, who is widely known as the worst president on the environment in modern times. As the graphs attached to my statement show, the proposed budget is only a small fraction of what we now spend on weapons. Surely we can do better than that.

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[1] See p. 494 for Mr. Clark's prepared statement.

When someone gets a promotion there should be a hefty raise to recognize increased responsibilities. This has not happened with EPA. Its operating budget this year is actually lower than what it was in 1979 if the effects of inflation are fully considered. Last month 14 national environmental organizations, including all of those represented at this table, wrote the Congress asking that the core EPA budget be doubled by the end of the Bush administration, and we support the effort to put 25 percent more money in this year, which would amount to about $575 million.

Eleven years ago in 1979 few people had heard about greenhouse effect, ozone, radon, indoor air pollution, nor were we really grappling with the sustainable use of our natural resources. We have passed many, many laws since then. Many of those are now the responsibility of EPA to carry out, and it needs an adequate budget. Ten years ago we were just beginning. Surely we are wiser now, and we need to make sure we will not be sadder 10 years down the road.

In addition to adequate funding, the new department must be effectively able to deal with the pernicious activities the Office of Management and Budget. The OMB regulatory review process is unnecessarily interfering with EPA's ability to carry out its job. OMB has repeatedly revealed its hostility toward environmental laws enacted by Congress, as this Committee knows all too well. Its authority largely comes from Executive Order 12291. We believe this order should be repealed, or at a minimum, that new controls be enacted by Congress to combat OMB's interference with the proper enforcement of our environmental laws.

And finally, we think this new department should be given new authority to combat the problems of noncompliance with environmental laws at Federal facilities, particularly those of the Department of Energy. And we wish to commend you for your leadership in exposing the kinds of abuses that have gone on at that agency in recent years.

We believe we need a strong enforcer to oversee the operations of the Federal Government which pollute our land, our water and our air. The recent revelations about DOE are only one recent example, and there are many more.

EPA currently has little leverage over uncooperative Federal agencies. Last year the House of Representatives adopted H.R. 1056 to allow EPA to commence enforcement action against any Federal department, and we would encourage this Committee to include similar language in this legislation.

We also share similar concerns about the potential of this bill to underline the role of the CEQ. We are concerned that it continue to have a lead role in producing a major environmental report each year, and that it should be the agency which is responsible for collecting information from all areas of Government and of our life. Clearly there is a role for EPA to do more, but I think that we are concerned about the proper role of the CEQ.

Finally, I would like to say there is an opportunity here to establish with a new department a major force in protecting the environment, both here and abroad. Including the EPA in a cabinet-level status will enable it to deal more effectively with other countries, and I think we should be taking the lead in doing so. This new department with more teeth and more money can make an enormous difference and we thank you for pushing to make sure this happens.

Thank you very much.

Chairman GLENN. Thank you, Mr. Clark. Let me follow-up or your comments, and then we will get on to other witnesses.

Regarding noncompliance, I don't know whether you were here yesterday or not, but you are probably aware that some of the fines that have been leveled are negotiated out to only 10 percent or 15 percent of the original, and it is usually cheaper to pay your fine and go back to polluting than it is to stop it.

We brought that up yesterday, and Mr. Reilly said that they are working on that and looking into it, but that was one of our concerns. And that was brought to our attention by the IG over at EPA. It wasn't something that we stumbled into; the IG brought it to our attention, which I thought was very good. It means the IG is doing a pretty good job over there I guess.

The 25 percent budget increase—and I think a couple of you have mentioned that—I would like to see their budget increased, too. I am a realist, though, about what we may be able to do in this budget environment. I don't know whether we can bring it up that much or not, but I would like to try to bring it up a little.

Ms. Newsome, regarding your comments starting off about wanting an Office of Enforcement, and then concerns about what we would do with this Commission on Improving Environmental Protection. If you read Section 503, which I am sure you all have done, it was not our intention to have that group be the policy-setting group. As I said earlier in the hearing to someone else, we find EPA rules, regulations, and so on, in almost every single department of Government. It is a rare department that doesn't have something in that regard. We find so much overlap that sometimes business people are concerned about which law they should abide by and which laws they can ignore. And what we are trying to do is bring this together so it is more coherent and make it more effective.

So that is the basic intent of this thing. I was just rereading our Section 503 when Mr. McCloskey was talking a moment ago, and I can understand your concerns. But our intention with this section was not to try and make this the policy-writing commission or anything like that, it is to set up the mechanisms by which those policies can be enforced in a better way. So that was the general purpose of that section.

I know you all have concerns about CEQ. That is something that we have to look at with this commission. I just want to make the whole thing function better and more efficiently. That is the purpose of it. Maybe the commission will come out and they will want to strengthen CEQ instead of the other way around, I don't know. And that is fine with me if they find that's the way we should go. But we just think there is a such a proliferation of laws and regulations, and it just needs to be looked at and made more effective and efficient so we get on with the job and define what is done at state level, et cetera.

So that was the purpose of it. I just wanted to clarify that because several of you had concern, and you started off with that.

Mr. Stoel, let me ask you about this international issue, which I believe you mentioned. I am concerned about whether we need any additional authority. Do we need additional legislation to carry out our responsibilities at all these international meetings, or is existing EPA law as you see it adequate to carry out our international responsibilities?

I point that out because it is a rather new development in the last few years. We have seen just a straight uphill slope in the curve on interest in international things, global warming, pollution, ozone, pollution of the oceans, and so forth.

Is EPA with its authorities as written into law now adequate to deal with that?

Mr. STOEL. We think not, Mr. Chairman. EPA, as you know, was created by a reorganization act as long ago as 1970. The fact is that EPA has no statutory authority in the international area. The agencies that were brought together to create EPA were not in the international business at that time, and EPA is simply lacking in that authority. It has assumed that authority with the consent of the President, but we believe that, given the prominent international role the new department is going to have to play, it would be extremely helpful to set out some of the responsibilities the Congress expects the department to exercise.

I would point to Section 108 of the corresponding House bill, which encourages EPA to assist and coordinate with the Secretary of State in negotiating international conventions, in administering conventions, in participating in the work of international organizations, and in conducting research—research and technical assistance are extremely important, because EPA has the most research dollars to explore these international issues. The State Department, which often takes the lead, relies very heavily on the EPA at this time.

The fact is that the State Department can be rather touchy in these areas, and if a Secretary of State feels that he or she wants to go off and do these things on State Department's own without the new department, it would be hard for the department to resist if the statutory authority were not clearly in place and the Congressional expectations were not set forth. So we think it would be a very wise thing to put this provision in the statute. We understand it would not be controversial.

Chairman GLENN. Well, we will certainly look at that and see if we need to strengthen the language on it. I thought we had done a pretty good job in that area. If you look at our titles, just starting out on the title page we set up the organization a little bit in Title II. Title III is "Establishment of the Interagency Committee on Global Environmental Change."

Title 4 is "Environment Role of the United States in International Organizations to Which it Belongs."

Now, maybe we need to specifically state that we do belong. I thought we had spelled this out well enough. Maybe we were a little less direct than you would prefer, and we will certainly look at that and see whether we need to change it or not. But one of the reasons for elevation is to enable us to deal better in the international arena. That was one of the major purposes of this legislation.

Mr. STOEL. Well, we think those provisions, the specific powers of the department should be brought up into Title II where the guts of the department and its functions are laid out. We agree that these other provisions are very good, but we don't think it is totally clear what the powers of the department are.

As you mentioned, there is a controversy about whether the Secretary of the Environment should chair the new Committee. I don't know what the constitutional aspects are, but I would point out that President Reagan actually put James Watt in charge of such a committee in the early 1980s, and we certainly don't want to see anything like that repeated.

Chairman GLENN. It is not a question of the President putting somebody in the Executive Branch, it is a question of whether we in the legislative branch can put it into the Executive Branch and require it of the President. That is the constitutional problem.

Mr. STOEL. I understand sir, and I hope you can reach an agreement that it will happen regardless.

Chairman GLENN. I don't want to belabor this point, but I was just looking under our general findings. You may want to check those again. We say in the very first part of that, "Congress finds that, one, the earth's environment is being altered by human activities," and so on. Number 2, "These environmental effects have serious implications for the earth's ecosystems, agriculture," and so on.

Three, "Federal energy, natural resources and environmental policy must be coordinated to take into account the fragility of the earth's ecosystem."

And four, "Adoption and implementation of a high level coordinated policy which will address the environment on a national and international level as necessary to protect the earth's ecosystem."

So we are pretty heavy into earth concerns overall, not just keeping it within our own continental borders. But we will look at the language of that and see if it can't be improved.

Mr. STOEL. Thank you.

Chairman GLENN. Mr. McCloskey, your comments on the Bureau of Environmental Statistics adding exposure assessments and tracking trends are something we might wish to write into this, and we will look at that also.

We are going to have to move along. I appreciate all of your concerns this morning. If you have additional comments you could submit them to us, and there may be additional comments requested of you from other members of the Committee. We appreciate your being here this morning. It was very helpful. Thank you.

Our next witness, Mr. Nolan Hancock of the Oil, Chemical and Atomic Workers Union. Mr. Hancock, if you would come to the table, please.

Thank you for being with us this morning. We look forward to your testimony.

TESTIMONY OF NOLAN W. HANCOCK, OIL, CHEMICAL, AND ATOMIC WORKERS INTERNATIONAL UNION [1]

Mr. HANCOCK. Thank you, Mr. Chairman. It is our pleasure to be here this morning.

My name is Nolan W. Hancock, and I am the citizenship legislative director for the Oil, Chemical and Atomic Workers International Union. Our union represents approximately 110,000 members in the oil, chemical pharmaceutical, wet milling and atomic industries.

Mr. Chairman, I appear before this Committee in support of the elevation of the Environmental Protection Agency to full cabinet status. The fact that a union is here today speaks in support of the role which EPA currently plays in all of our lives. The protection of our members' health does not end at the plant gate. While OSHA has the role of worker protection inside the plant, we know from experience as a union that workers, their families, and the general public are threatened by the exposure in the ambient environment.

The current clean air debate is an example of how a law administered by EPA has direct impact on workers. The current Section 112 of the Clean Air Act has not functioned to protect the public health from exposure to toxic air emissions. For the last 18 years the agency has struggled to regulate only eight of these toxic hazards. The Senate Environment and Public Works bill has taken a new approach to tackling these emissions. The Committee has identified 191 of these substances as hazardous and has developed a regulatory regime which will first place technology controls on the facilities to control these hazardous air emissions. The second step would call for examining what residue risks exist and imposing further controls if necessary. We support these measures because they will give us real controls which will lessen the exposure of our members who are directly involved in the process work which create these chemical emissions.

Second, the bill provides for hazard assessments and a Chemical Accident Safety Board, which is vital. The frequency of the accidental release of toxic chemical is often underestimated. The Acute Hazardous Events database put together by EPA cataloged 11,048 events spanning 8 years. In other words, this partial listing of chemical incidents in the U.S. provides a record of nearly 4 accidents every day. According to EPA, these accidents resulted in 309 deaths, more than 11,300 injuries, and nearly 500,000 evacuations between 1980 and 1988.

The latest accident to affect our union occurred on October 23, 1989 at the Phillips Chemical Complex in Houston, Texas. As a result of a polyethylene reactor having its contents vented into the atmosphere through an open reactor block valve, a vapor cloud of processed gas of primary Iso-butane and ethylene then engulfed the reactor complex and exploded with a force of 10 tons of TNT. The resulting shock wave measured between 3.5 and 4 on the Richter Scale at Rice University. The human cost was catastrophic. There were 22 fatalities and 109 workers that were injured, and these were mostly members of my union. Debris from the explosion was thrown as far as 6 miles into the community, and portions of the facility fell like rain over the residential areas, schools and public highways. The plant was completely destroyed.

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[1] **See p. 512 for Mr. Hancock's prepared statement.**

These are examples of how the Environmental Protection Agency and environmental laws have a direct impact on the workers that we represent. The protection of the environment in many instances is the protection of the health of workers and their families. We support the elevation of the EPA to the cabinet because we recognize the importance that environmental issues have taken on for the United States and the rest of the world. The elevation of cabinet rank will allow the Secretary of the Environment to deal with peers from other countries on an equal footing. The negotiations on the environment will be difficult enough in this decade without the United States having the handicap of not having personnel of equal standing at the ministerial level.

While OCAW supports the elevation of the Environmental Protection Agency to a cabinet-level department, we have some concerns about the activities of EPA relating to worker safety and health. EPA's primary role has been to address the hazards and risks to the public and the environment. However, many of the environmental hazards which threaten the public health are the same hazards that threaten the health of workers on the job. Asbestos, hazardous wastes, indoor air pollution, and many chemical hazards are the shared concern of the public and workers.

As the Environmental Protection Agency and the Congress have moved to address a number of the environmental concerns, they seem to have lost sight of the fact that these are also major occupational safety and health problems for workers. The proposed clean air and indoor are legislation establish programs and requirements for EPA to address these hazards, ignoring the fact that OSHA and NIOSH have the responsibility to address these hazards in the occupational setting.

The labor movement does have concerns that with elevation of the EPA to a cabinet-level department these problems related to jurisdiction may become more acute and serious. While we support the elevation of EPA to a cabinet-level department, we believe that Congress must take care to make sure that it is not done at the expense of other vital programs such as OSHA and NIOSH.

In regard to the specifics of this legislation, let me make the following comments. One, we support the provisions which would create a Bureau of Environmental Statistics. The collection of information on the effects of various pollutants on human health and the environment is vital to sound decision making in a regulatory and legislative framework.

Two, we support the increased concerns of the Government for global environmental issues. However, we think that further study is necessary to determine the role of an Interagency Committee on Global Environmental Change. Three, we have concerns with the Commission on Improving Environmental Protection. We would not want this to become a tool to revisit the past concerning the shape and scope of already established law.

And fourth, we urge you to support increased funding for the new Department of the Environment. Without adequate funding there will not be adequate environmental protection. The President has supported this action that both houses have taken in the introduction of this legislation. The Oil, Chemical and Atomic Workers International Union applauds your efforts and stands ready to work with you to see the swift passage of this important legislation.

Thank you, Mr. Chairman.

Chairman GLENN. Thank you very much, Mr. Hancock.

One of our concerns there was how we move with this Commission on Improving Environmental Protection. I addressed that a little earlier and you probably heard that.

Mr. HANCOCK. Yes, I did.

Chairman GLENN. It was not our intent to change policy and eliminate this. We want to take all the rules and regulations that people cannot figure out and bring them together so it will be more efficient and can enforce them and really mean it, and not have people working under conflicting laws and conflicting regulations and rules. That is our concern.

I also hope we can have increased funding. That is going to be an uphill battle with all the other things we have as concerns, as you are well aware. You mentioned EPA's relationship with OSHA and NIOSH and that EPA is increasingly moving into the area of worker safety where it has little expense and authority.

Is this at the expense of OSHA and NIOSH? Is there anything wrong with having another agency look out for worker protection if OSHA occasionally is not doing the job?

Mr. HANCOCK. Well, we are concerned about that. Of course, in the past we have not been the strongest supporters of OSHA because we feel that in the past few years they have not done the job that they were mandated to do. We just want to make sure that we don't get into some real jurisdictional disputes in the workplace as the requirement for protecting the health and safety of workers.

Chairman GLENN. Do you think EPA's elevation will improve the Government's commitment to Federal facility clean-up? That is an issue we have been very much involved with on this Committee for many years in looking into the nuclear, the radiation, the pollution, the toxics that come out of, in particular, some of the nuclear weapons plants. You are familiar with our work on that, I am sure, across the whole weapons plant complex.

But one of the problems has been if EPA moves in, what do you do? You sue another department of Government. Well, that sounds great. We are going to sue somebody and they are going to have to pay. All you are doing is transferring taxpayers dollars from one pocket to another and it doesn't accomplish much. It is not like you are filing a suit against a company that has that show up on their bottom line profit or loss and they are responsible to their stockholders. Here we are transferring dollars from one pocket to another and claiming like we really penalized someone. That never has seemed an adequate answer to me.

We have talked a little about how you address this, and I don't quite really know. You can say we are going to fire somebody, so we fire somebody. Then we have trouble replacing them at Government pay scales, so we are back in the same quagmire again.

Do you have any thoughts on how we can best take care of this one Government agency?

Mr. HANCOCK. We share your concerns and support of your bill to transfer the health and safety of workers from DOE to OSHA. We are concerned about the contamination and the need to cleanup the environment, especially in those DOE nuclear facilities across the country where we represent workers. It is the workers that we represent that are the ones that are being exposed to the radiation and contamination and to the hazardous wastes that exist. But forcing one agency to act by another agency is certainly a difficult question that you raise, and I don't have the answer to that, Mr. Chairman.

Chairman GLENN. Well, we look forward to working with you on that, and we appreciate your being here this morning. We may have other questions submitted by other members and we would appreciate your response so that the response could be included in the record.

Mr. HANCOCK. Thank you very much.

Chairman GLENN. Thank you very much.

The hearing will stand in recess until tomorrow morning. We are still scheduled tomorrow morning at 9:30. I do have a conflict then. We may have to put it back to 10, we will announce that later today, or I may be able to get one of the other Committee members to chair until I can arrive, so we will see later how we treat that.

The hearing will stand in recess. Thank you very much.

[Whereupon, at 11:35 a.m., the hearing was adjourned to reconvene at 9:30 the following day.]

DEPARTMENT OF THE ENVIRONMENT ACT OF 1990

THURSDAY, FEBRUARY 8, 1990

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:35 a.m., in room SD-342, Dirksen Senate Office Building, Hon. John Glenn (Chairman of the Committee) presiding.

Present: Senators Glenn, Lieberman, and Stevens.

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator LIEBERMAN [presiding]. Good morning.

Senator Glenn is off at another meeting for about a half hour and asked me to open this hearing this morning and to chair it until he arrives, and I am delighted to do that.

Today, as you know, we conclude 3 days of hearings on S. 2006, which is a bill that would create a Department of the Environment that would be part of the President's cabinet. I am proud to be an original cosponsor of that bill, and I certainly hope that it passes.

I have been unable to be here for the last 2 days because I have been involved in the negotiations between the Environment Committee, of which I am a member, and the administration on the Clean Air Act. I must say that I come away from those meetings with a renewed feeling of the importance of elevating EPA to cabinet level. We see in those negotiations a fact that I am sure is obvious to everybody in this room—the challenge of protecting the environment really is a challenge of trying to get people and institutions and industries to change the way we are living and doing business. And there is a natural resistance to change.

And so there are arguments and uncertainty in these negotiations, and a competition between different forces within the administration. I find the same uncertainty in the global warming policy that the President announced earlier this week, which I was personally disappointed with and which I thought was unfortunately timid. I think the President's position reflected a series of discussions, perhaps arguments, within the administration about how important it was to go forward in protecting the environment quickly and how prepared different elements of the administration were to face the complaints from those being asked to change. All of this says to me that we need to elevate the voices whose focus is to protect the environment. And one way to do that is to give those voices cabinet level status, a full seat at the table at cabinet meetings. But, obviously, that is only part of the battle; the second part is the extent to which others are willing to listen to those who speak for the environment.

Senator Wilson is not able to be with us today, but he has a statement that will be inserted into the record at this time.

[The statement follows:]

OPENING STATEMENT OF SENATOR WILSON

Mr. Chairman, thank you. I greatly appreciate all of your efforts—and those of the Ranking Member—in bringing forth this outstanding legislation (S. 2006), which I am proud to cosponsor, before the Committee this week for hearings so soon after having introduced it.

A great deal of credit must go to you for pursuing S. 2006 with dispatch and bipartisan support. The President's recent endorsement of the elevation of the Environmental Protection Agency to a cabinet-level position sets the stage for accelerated enactment of the legislation now before the Committee.

In the twenty years since its creation in 1970, the EPA has proven its value in helping to improve the environment in which we live. EPA's strong environmental management has benefitted the lives of essentially every American. I believe we are only just beginning to recognize fully the important role EPA can play in air and water quality issues, solid waste management, toxics and hazardous waste control, pesticides, and a wide array of other issues. It is therefore appropriate to recognize this agency's importance by elevating it to the President's Cabinet. This reorganization to cabinet status allows an organized and efficient transition for the agency from a long-standing regulatory agency to a new coordinated environmental department.

People want good government and good government organization—government that is streamlined to provide the most efficient and effective environmental management.

Our national parks, wildlife refuges, forests, wilderness areas, and other resources of historic, cultural, and ecological significance are represented in the President's Cabinet through the Departments of the Interior and Agriculture. Yet, there are a number of other important environmental issues that are not represented at this level. A Department of the Enviornment would elevate such issues to the cabinet-level status that is desired to ensure even greater environmental and health protection for Americans.

The environment is everyone's responsibility, but decisions involving it are not delegable. The Chief Executive must be provided with the opportunity to make proper decisions about the environment. With EPA at the cabinet table, the President will have direct, hands-on interaction with all important environmental decisions for the country, and will be able to interrelate them with other national priorities. Similarly, I also have urged such a reform in my State of California that would establish a "Cal-EPA" to ensure the safety of all Californians from hazardous wastes, pesticides, and other health-threatening pollutants.

The EPA is lucky to have at its helm an internationally recognized environmentalist and conservationist, Mr. William K. Reilly. He has spent his career advocating sound environmental management for this country and the world. His positions as Director of the Conservation Foundation and the World Wildlife Fund, as well as his background as an environmental attorney with the President's Council on Environmental Quality in the early seventies, attest to his skill and dedication.

Administrator Reilly is moving aggressively to take on the many important environmental challenges to the federal government. S. 2006, as introduced by the Chairman, our Ranking Member, and others of this Committee, including myself, will provide an even greater leadership role for the Secretary of the Environment.

It makes sense from an efficiency standpoint to upgrade the EPA from its independent agency status to a cabinet post within the federal government. The President and the American public want the federal government to recognize the protection of our environment as a major government focus. But unfortunately, the EPA currently must work on its environmental agenda with the President indirectly through the Office of Management and Budget. With the EPA represented at Cabinet sessions, environmental concerns will come directly to the President's immediate attention. It will enable President Bush to provide the hands-on leadership he promises, and, I sincerely believe he wants, to lead our nation on critical environmental issues.

EPA's realm not only covers environmental concerns of the nation, but its areas of responsibility also have an international dimension. From ozone depletion and climate change, to ecology concerns such as the demise of elephant populations in Africa, and the loss—worldwide—of tropical rain forests, the EPA has demonstrated its ability to protect the global environment. Improving our global environment necessitates a better scientific understanding of these and other environmental concerns. This can best be achieved through a coordinated approach that draws upon the resources of many federal agencies. EPA at a cabinet level will achieve this goal not only by its reorganization, but also through the creation of a formal Interagency Committee on Global Environmental Change.

In essence, EPA programs have implications for nearly all federal government agencies, and require significant interaction with those agencies where joint jurisdiction is involved. Quite simply, a cabinet-level EPA would strengthen the agency's bonds with other cabinet-level Departments and provide a more integrated approach to the global environment.

I am honored, as a member of this Committee, to have the opportunity to play a part in this governmental restructuring. Representing a coastal state with a vast array of physically different environments and, most significantly, possessing an increasingly burgeoning population that will soon be thirty million in number, I and my fellow Californians want the President's Cabinet to have complete environmental representation. The federal Secretary of the Environment will need to pay closer attention to air and waste quality problems, the production of toxic substances, solid waste management, pesticide use, and other environmentally hazardous agents in California.

We must continue to press forward on cleaning up the damage caused in an earlier age during which we emphasized growth without adequate concern for the damage being done to our long-term future. Moreover, we must identify ways to avoid repeating our mistakes, or making new ones, as we try to maintain our world leadership in manufacturing, agriculture, high-technology, and other fields.

The elevation of the EPA to a place within the President's Cabinet will serve to advance our ability to better tackle many of today's and tomorrow's environmental problems.

Mr. Chairman, if the alacrity with which you have brought about this week's hearings is any indication of the speed that we can expect for moving this bill to the Senate floor for consideration, I have no doubt that we will be able to meet the Earth Day 1990 goal for enactment of this legislation. Thank you again for your support, and that of the Ranking Member's.

Senator LIEBERMAN. Today we are going to hear from a very distinguished group of witnesses. When Senator Glenn called and asked me to chair the hearing this morning, I sensed the hand of fate, because it gives me the honor of welcoming and listening to my college classmate and long time friend, Gus Speth of the World Resources Institute, and Paul Portney of Resources for the Future.

We will then hear from Dexter Peach of the General Accounting Office, and from a panel of industry representatives including Dr. Bruce Karrh of DuPont, Mr. Daniel Shipp of the National Electrical Manufacturers Association, and Mr. Ron Van Mynen of Union Carbide.

I want to thank each of these distinguished witnesses in advance for your testimony today, and we will now begin with Mr. Gus Speth.

TESTIMONY OF GUS SPETH, PRESIDENT, WORLD RESOURCES INSTITUTE

Mr. SPETH. Thank you, Mr. Chairman. It is a pleasure to be here this morning.

I want to commend the Committee, you, and Senator Glenn for taking this initiative. In my view, the elevation of EPA to cabinet status is an extremely valuable step and long overdue. The reasons why this should happen were well stated by Senator Glenn and

Senator Roth in their comments on January 23rd. They don't need to be repeated. I also think that S. 2006 recognizes that many initiatives are needed beyond the mere elevation of EPA to cabinet status. In my view, all of the titles of this bill are important. And while I want to point out some problems I have with several of them, I think they all should be adopted.

The United States is at a critical juncture, with the possibility of far-reaching environmental change looming if we don't act swiftly and surely in the 1990s. So we have to take every advantage of the opportunities we have. Enactment of S. 2006 is one of those opportunities. It is not enough just to change the name of EPA to the Department of the Environment, so let me raise several issues that go beyond that.

In Title II, my first concern relates to the structure of the new department. I want to underline the urgency and scope of the environmental challenges ahead in the United States. We try to achieve a 3 percent per annum growth in GNP in this country regularly, something on that order. In just 60 years that becomes a 5-fold expansion in the level of economic activity in the United States.

At the same time that we are contemplating this large growth in the size of the American economy, we are also saying that we are dissatisfied with the current level of pollution emissions and we want to reduce them. That is hard enough to do with the size of today's economy. Now, the only way that these two national objectives are going to be reconciled is if there is a far-reaching transformation of technology, a transformation of technology used in agriculture, in manufacturing, in energy, in housing, and in all sectors of the economy.

We have got to carry out in the decades immediately ahead an unprecedented shift to technologies, high technologies and low technologies, soft and hard technologies, that can facilitate and permit this economic growth while at the same time reducing pressures on the natural environment. I don't think we are going to be able to do that with the governmental organization we have in place today.

In the future, in my view, EPA must come "inside" the production process and quit being merely an end-of-pipe, ambient environment regulator. The work of the Environmental Protection Agency and the new Department of the Environment has got to be integrate environmental objectives into the basic design of our transportation, energy, and other systems. A new type of cooperation is going to be needed between the Department of the Environment and other cabinet agencies, environmental advocates and private business. Together these groups are going to have to work "upstream" to change the products and processes and the basic policies and pressures that give rise to pollution and other environmental problems in the first place. We don't want to legislate the status quo into being, because the status quo is not going to be good enough for the 1990s and beyond.

What if EPA, instead of being organized along the lines of air pollution, water pollution, pesticides and such, were, in fact, organized by energy, transportation, manufacturing, agriculture and housing? These are the great sectors of our economy. They are technology based and technology driven. I think that a major portion of the new Department of the Environment should be organized so that it can interact with these other departments of Government and the sectors of the economy, in order to facilitate the process of moving "upstream" and integrating environmental factors into the basic design of the future. EPA and other agencies are not institutionally situated to do that today.

Let me suggest a couple of ideas that would move us a first step in that direction. A new Federal center could be associated with the new department to promote the deployment of new environmentally sophisticated technology. It would work as a catalyst within the Federal system and between Government and the private sector. This center would have a policy research budget, and it would carry out a variety of research, convening and coordinating and educating functions. It would try to define a series of win-win options and to stimulate public and private actions to promote those options. It would be organized, for example, by sectors. This center could have a division of agriculture, a division of housing, a division of manufacturing—in each case containing people who really know the technologies in those areas, who know the business issues in those areas, who know what is going on in the other departments and in the great sectors of the economy. And department would then have a way of working on an entirely different basis than it has now.

Unfortunately, the current, inadequate structure of EPA is enshrined in S. 2006. As one modest way of trying to work some into the legislation, I would urge you to suggest or require that the Department of the Environment have an Assistant Secretary for Technology and Strategy with a staff of scientists and engineers and business managers and economists and others organized by economic sector. I think that would be a step forward and would set us on a path that could lead to the kind of institutional change in our Federal Government that can honestly cope with the problems of the 1990s.

My second point is related to the first point. Senator Glenn and others have introduced a Trade and Technology Promotion Act, and in that act a Department of Industry and Technology is proposed. Right now, Mr. Chairman, as I read these two pieces of legislation, they don't really talk to each other. One is aimed at protecting the environment, and one is aimed at promoting the competitiveness of U.S. exports and supporting the success of the U.S. economy. The two goals seem entirely independent, but they are not.

I would urge the Committee in the strongest terms to integrate these two pieces of legislation, not into one piece of legislation, but to provide provisions in both so that these two new departments are required to work together. That is where the future of environmental protection is going to be and not in the traditional approaches of the past.

Also, the proposed legislation on trade and technology promotion calls for moving the National Oceanic and Atmospheric Administration to what is in that legislation EPA but would be the Environment Department.

Mr. Chairman, I urge that you think seriously about going ahead and moving NOAA in this legislation—or in some other way, as soon as possible—to the new Department of the Environment.

I think there are three very important reasons for doing that. EPA needs a critical mass. The new Department of the Environment will need a critical mass of technical experts and the additional size and capability that this move would provide. It will provide EPA with an independent science capability, with international outreach into oceans and atmospheric issues, which it does not now have, and it will provide the new Department of the Environment with the capability of dealing with issues such as coastal zone management and marine mammal protection and other things which really are environmental issues and never did have too much business in the Commerce Department, in my judgment.

My third point relates to the new statistical bureau. I would urge that there not be a new report created for environmental statistics, but that the responsibility for issuing a report on environmental statistics and conditions and trends be integrated with the current Council on Environmental Quality annual report. The CEQ has a long history of working in this area. It needs to be revived and strengthened. We need more integration and fewer reports in general, and I think this would be a step in that direction.

My fourth point relates to Title III. This, of course, is the title that creates the committee to develop global policies for our Government. This language in S. 2006 is not mandatory, so it is not clear that it is important. I would urge you to either make the language mandatory, so that this committee structure is in fact mandated, or to consider some other way of accomplishing this objective, because it is extraordinarily important. The process S. 2006 recommends is exactly what needs to happen. We badly need this process in place within the Executive Branch. The authors of S. 2006 are right to want such a process, but you won't get it with non-mandatory language.

The next issue is this question of the placement of the committee responsibility. In S. 2006 this responsibility is placed in the Executive Office of the President, but then S. 2006 leaves it to the President to decide who should chair the activity and where the new staff capability should be.

Mr. Chairman, if you are going to put this in the Executive Office of the President, it should go to the Council on Environmental Quality, which is exactly the agency that was created to do this type of work. The alternative would be to let the President put this capability anywhere in the Government that he chooses to put it, including outside the EOP. But if it is going to be in the Executive Office of the President and it is not given to the Council on Environmental Quality, it does raise the question, well, what is the council there to do? I think it is there to do precisely what Title III calls for.

On the composition of the committee, that is truly a can of worms. The legislation lists a number of agencies, but obvious in their omission are agencies like USAID, the National Security Council, the International Trade Representative, the Treasury Department. These are agencies that we in our work on global issues spend a lot of time with. For example, the Treasury Department is the agency that deals with the multilateral development institutions, the World Bank and others. So I would call to your attention the fact that the composition of this committee needs additional attention.

Finally, let me comment on Title V, this extraordinarily important initiative to create a commission to review all environmental laws. I think that there are three issues here that need additional attention. The first is that I would urge you to think of a more thoughtful and deliberate way of launching this exercise, rather than creating de novo a group with various people appointing members and launching it into uncharted territory.

I think our Federal environmental laws need reform. They need streamlining. They make a patch-work quilt, and there are opportunities to improve the way we go about environmental regulation. I would encourage you to think about some other ways of launching this review so that it is not simply a matter of throwing it up into a political football.

The other issue has to do with looking ahead. The language as it is now drafted focuses on how can we improve the current corpus of environmental programs and laws and regulations. I would urge that this focus on the current situation and how that might be improved, be supplemented with an additional focus on how we can achieve the integration of technological innovation and environmental improvement in the future.

I think a high-level Federal commission that took it upon itself to envision how we can deploy technology that can promote economic development, competitiveness, and environmental quality at the same time, and that envisions successful scenarios in housing and transportation and energy and manufacturing, would start us down the right path.

Thank you very much.

Senator LIEBERMAN. Thank you, Mr. Speth. I want to welcome Senator Ted Stevens of Alaska, who has joined us.

Let me break the rhythm of the process if I can—because Senator Glenn may return and I may go back to the Clean Air negotiations—and just ask you a couple of questions before we get to Dr. Portney. I appreciate your testimony very much, and particularly the notion that we need to get the environmental perspective inside the various functions of Government in which it is intimately related but in which its voice is not often heard, such as energy, transportation, housing, et cetera.

Do I take it that, in Title V, you support the idea of a commission to review the existing environmental laws, but that you think its mandate ought to be broadened to try to come up with some options for this "getting inside" approach that you are advocating?

Mr. SPETH. Yes, that is one of the things I would advocate, Mr. Chairman.

Senator LIEBERMAN. Secondly, I know that in the preceding 2 days there has been a lot of discussion about the Council on Environmental Quality. I take it that you do not think that the creation of a Department of the Environment and the various subparts of this proposal invalidate or moot the purposes for which CEQ was created?

Mr. SPETH. As the Chairman knows, it was my privilege to serve as chairman of the council for a little over 2 years in the Carter administration, and as a member for the other 2 years. And my sense is that the creation of the Environment Department in no way diminishes the need for a Council on Environmental Quality any more than having a Treasury Department and a Commerce Department eliminates the need for having a Council of Economic Advisors.

Senator LIEBERMAN. That is a good analogy. Let me ask you this: based on your experience at CEQ and what you have done since, how would you affirmatively describe the purpose of CEQ, and particularly its relationship to a Department of the Environment?

Mr. SPETH. I would say that the principal purpose of the Council on Environmental Quality is to serve as the Executive Office of the President advisor to the President and to the other Executive Office of the President agencies. All of these issues ultimately come to a head in the Executive Office of the President with OMB, the Office of Science and Technology Policy, and I think the President needs an environmental advisor with a strong science capability, a strong economics capability, so that environment is really an essential part of the decision making process in the White House, and that is the role of the council.

In the Reagan administration President Reagan did not want such a voice and did not have it, and I think the country suffered.

Senator LIEBERMAN. And the fact that by this bill we would be putting the environmental voice right at the table with the President does not make it any less necessary that there be essentially within his own house a Council on Environmental Quality?

Mr. SPETH. I don't think so. The President needs a staff. I think one of the mistakes that President Carter made when he came into office was the idea of sharply reducing the size of the Executive Office of the President, and he did it and then it grew back again. The President needs a core of extraordinarily capable and dedicated people, including people who are dedicated to him and his success as a president, and part of that dedication should be a dedication to the environment.

Senator LIEBERMAN. Let me ask you just one final question. During your remarks you talked about the hopeful interaction between a Department of the Environment and the substance of the Trade and Technology Act that we are supporting. One of the things that has come to my attention in my work on the Environment Committee is that some of the new, environmentally sensitive technologies may have not only an environmental reward, but also an economic reward for our country, insofar as there seems to be a growing worldwide market for such technology.

Does that correlate with your own work and experience?

Mr. SPETH. I think that is absolutely right. There will come a point in which photovoltaic energy technologies, energy conservation technologies, biological technologies, materials technologies can have tremendous impacts on addressing today's environmental problems. And since these problems are increasingly global, there will be global markets for these products. And the countries that get there and are producing the right types of automobiles and the right types of home appliances and the right types of chemicals are going to have truly tremendous global markets.

And if the United States is not organized in a way to—if our Government is not facilitating that process but is actually standing in its way by perpetuating old forms of interaction, then I think that would be a very sad thing. I think that the combination ~~of~~ a Department of the Environment legislation and a Department of Industry and Technology legislation, the powerful combination of bringing these ideas together, I would just urge you to think about how those 2 pieces of legislation could be written so that they really do speak to each other and are viewed as complimentary and synergistic.

Senator LIEBERMAN. Thank you very much. I am pleased at this point to yield the chair to the real chair.

Chairman GLENN. Go ahead and stay there.

Senator LIEBERMAN. Well, that's okay. I am going to return to the Clean Air negotiating table, if that is okay. I thank you, Mr. Chairman. You didn't know when you asked me to do this, as I indicated earlier, that you were giving me the pleasure of listening to and having a conversation with my college classmate, who I found as compelling this morning as I did now more than 25 years ago when we were mere youth.

Thank you.

Mr. SPETH. Thank you, Mr. Chairman.

Chairman GLENN [presiding]. Thank you very much, Senator Lieberman.

I had to be at a press conference on some education matters with Senators Kennedy, Hatfield, Mikulski, and Mitchell to introduce a piece of legislation on science and math education. Mark Hatfield and I introduced this piece of legislation which has now been included in the more omnibus education bill that Senator Kennedy is introducing. We were having a session over here to announce it to the press this morning, and I appreciate Senator Lieberman taking over until I could get back.

I understand you referred to the Department of Industry and Technology earlier. If we had been going to do what I feel would be an ideal reorganization, we might have taken a slightly different route, but we being political realists here on the Hill and realizing the different interests involved took what I feel is a reasonable step with this department in the way we are setting it up.

You could make a good case that a Department of Science and Technology, which I believe almost every other major, industrialized nation has under some name, and that is its function, involves matters of the environment, of energy, of research within the Department which would encompass several departments, as we are now organized. Maybe sometime in the future we will see the wisdom of combining some of these things and putting them under one head so we can deal with them on what I would view as a more coherent and specialized basis.

Mr. SPETH. Mr. Chairman, I think you are on the right track with creating two different departments, and I would just welcome an opportunity to extend my remarks by making some suggestions for both pieces of legislation which could facilitate the dialogue between these two new departments.

Chairman **Glenn**. I won't give you a campaign speech, but I think this country got to be what it is basically for two fundamental reasons. One is education. Education in this country wasn't just for the kids from the castle or the rich kids or the politically connected, it was for everybody. We haven't done a perfect job, but we have done better up to now than any place else in the world, and now we are slipping. We have to do something about that.

And the other thing is in the area of research. We put more back into basic, fundamental Nobel Laureate breakthrough research that allows the development things to happen. And we have led the world. We had a gravy margin, if you want to term it that, since World War II and we didn't even worry about it. All at once we find out that other nations are recovered and they have more disposable income. They are putting it into education, they are putting it into research, and we are beginning to be out-competed, certainly in education, math and science education at least, and to some extent in research, although we are still ahead, I think, at the present time in research.

But we are beginning to see them taking off in areas where they are doing some of the original research instead of the United States of America. I think these are trends we have to reverse for the future. I won't elaborate on that. We came to hear you, not me, this morning. But thank you, let's move on.

Dr. Portney, can we have your testimony, please.

TESTIMONY OF PAUL R. PORTNEY, PH.D., VICE PRESIDENT, RESOURCES FOR THE FUTURE [1]

Dr. **Portney**. Thank you very much, Senator Glenn. I have to begin by observing that both Gus and I would be happy to yield the Floor to anybody who is up there talking to 2 research administrators but who is saying we need more research. You can go on as long as you want along those lines.

Chairman **Glenn**. Well, I won't belabor it, but—yes, I will for just a minute—around here we tend to think in terms of level playing fields; we got to change the rules, we got to put up barriers and we got to break down their barriers. I agree with the level playing field, the barrier breaking, and artificial barriers and all that business, and I want to break all those things down.

But looking at it on a 10, 15, 20 30, 40 year basis, what is going to keep us as a leader in charge of our own options for the future? It is going to be as we out-competed everybody else. Not as we set up restrictions or broke down their restrictions. It has got to be that we got out and got ahead of them so far with our breakthroughs, our education, and our superiority in these areas, that we just outcompete them. That to me is far, far more important than all the level playing fields and breakdowns and all the cliches that we use around here to cover our inadequacies all the time. So, thank you. That's free. I'll throw that in.

Dr. **Portney**. Sure. I can't speak for the World Resources Institute, but I know that Resources for the Future would be happy to absorb additional research resources.

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[1] See p. 520 for Dr. Portney's prepared statement.

Let me begin by saying that I really appreciate the opportunity you have given me to appear here today to talk about what I think is really a most important bill. And having had the opportunity in the past to testify on a number of particularly rancorous environmental matters, it is a special pleasure to testify on something for which I sense there is broad and bipartisan support that extends not only into the environmental community, but also into the business community as well. It is a real treat to be able to talk about a piece of environmental legislation like that, and I want to congratulate you and your colleagues and cosponsors for having cooked up something like this.

I want to make it very clear at the outset that I support, as Gus Speth did, all of the titles of the bill that you have introduced, S. 2006. If you will permit me, however, I want to concentrate particularly on the Bureau of Environmental Statistics for which I feel some sense of parental responsibility, if you will. As I indicated in my written testimony, it was about 2 years ago this month that I wrote several articles and penned a number of op-ed pieces that said that we in the United States badly needed a Bureau of Environmental Statistics some place, and within the EPA was my preferred location for it. And it has been with a mixture of delight, and I must also say surprise, to see this thing having been received so favorably and having gotten to the important point that it is at today.

If I might also interject a personal note, I have spent 20 years as a policy analyst looking at the environmental area, and while it is pleasant, it is also a surprise to see someone pick up on an idea and actually take it some place and try to do something with it. So it is with a sense of gratification as well as encouragement that I want to talk about the Bureau of Environmental Statistics.

Chairman GLENN. Are you going to address that as well as the CEQ and the potential conflict there between those two?

Dr. PORTNEY. What I would prefer to do, if it is okay with you, is pick that up in the questions and answers afterward. I am more than happy to do that because, as Gus did, I had the pleasure of serving at the Council on Environmental Quality under Gus in 1979 and 1980, so the interface between the two and the role of the Bureau of Environmental Statistics as it relates to both organizations is something I am interested in and would be happy to speak to.

Chairman GLENN. Good. I would appreciate that, and we can get to that in our discussion in a few minutes. We have had several people over the last couple of days of hearings who have commented on that. Some of them have seen a real conflict and they are very much afraid we are encroaching on CEQ by putting the statistical group in this, as they see it, competition. So I would appreciate any comments you might make.

Dr. PORTNEY. Sure. I don't see it that way at all and I will be happy to elaborate on my reasons for feeling so.

Let me briefly begin by identifying a number of reasons why I think this Bureau of Environmental Statistics is so badly needed. I think that the easiest way to do so is to play on an analogy between what we do in the way of collecting and analyzing and disseminating in a timely fashion environmental data with the same treatment we give to economic data.

I think we now understand that environmental concerns are every bit as important as, and deserve to be considered in the same forums as economic concerns, and yet if you look at our economic record-keeping in the United States and the efforts that we make to disseminate to the public timely information about economic conditions and trends, it is embarrassing to look at the analogous efforts in the environmental area. If I had received—and it is probably waiting for me in my office now—the most recent copy of the economic report of the President that was just issued several days ago, I could turn to the back and show you more than 100 tables, some of which go back to the 1920s, in which are presented various measures of economic aggregates, GNP activity, investment, unemployment, price levels, et cetera.

There are a number of other places where comparable economic data are presented. If you were to say to me, show me the best environmental data that we have and show me how far back it goes, the very best we could do would be to look at the EPA's annual Air Quality and Emissions Trends report, which in the environmental area is clearly the model for anything we would want to do with respect to other environmental media, and I would say that that now goes back to 1977.

We basically have a 10 year series, perhaps 1978 to 1987 now. That will be updated by one year come this March when the next report is issued. But basically we can go back no more than 10 years and that only for air quality. We have no comparable data for water quality or for any of the other environmental media about which we obviously care greatly. And I think there is an asymmetry between the kind of data that they collect and make available to the public on economic conditions and trends and what we do in the environmental area there and I think the Bureau of Environmental Statistics is precisely situated to help remedy that difference.

Let me just draw on two recent and current examples to give you an idea of the deficiencies in the data we have at our disposal for analyzing environmental conditions and trends, and I will deliberately concentrate in the air quality area where, as I have said, we do a better job than in any other environmental area.

Senator Glenn, you and your colleagues are now debating an ambitious set of proposed amendments to the Clean Air Act. One of the problems with which you and your colleagues are grappling has to do with the so-called non-attainment problem, what about those parts of the country where the ozone and other ambient air quality standards are not being met. And in the debate that one reads and listens to about why we need to come into compliance with the ozone standards, one of the frequent arguments that is alleged is that reducing ozone levels in urban areas will also produce increases in agricultural output in rural areas.

One would presume that statements like that are based on a knowledge of what rural ozone levels are like. Yet it is the fact, if my most recent investigations are correct, that we have no more than 10 or 15 rurally sited ozone monitors in the United States, and if we want to know what the ozone concentration is in a rural area in Kansas, the embarrassing truth is that we look at what the level is in St. Louis, we look at what the level is in Salt Lake City, and we basically average the two. That is how we determine what ozone levels are in the rural parts of this country.

I emphasize this point not necessarily to criticize the EPA and the air quality monitoring network that they have, because again I emphasize, it is the best that we do in the environmental area, but rather to indicate that we just have to do a better job.

Another part of the clean air legislation that you are considering has to do with ambitious controls on sources of air toxics. Yet the fact is that while as a result of Section 313 of the recent SARA amendments, we now know something about annual emissions of air toxics, we have no national monitoring network to record systematically ambient concentrations of hazardous air pollutants.

We know how much of it comes out of smokestacks and out of tail pipes, but we don't know how much of it stays in the air for how long and in what metropolitan areas. It is simply difficult—I would say impossible—to make sensible, sound legislation about controlling things like this if we don't know how much of it is in the air and for what periods of time.

Again, this is the area where we do the best. If we turn to water quality, we have to rely on the water quality monitoring network of the U.S. Geological Survey, which tends to site remotely located monitors to pick up background concentrations of water pollutants and doesn't, as a general rule, put water pollution monitors in the urban areas where we have made the most control efforts. As a consequence it is very difficult to know whether the money we have spent on controlling water pollution from industrial sources or from municipal sewage treatment plants has effected large, medium, or nonexistent changes in water quality in those areas.

So for these reasons I think it is absolutely essential that we create a Bureau of Environmental Statistics, one of whose functions is going to be to examine the national monitoring network and to make recommendations and take steps to help improve it.

Second, let me say that in those areas where we do collect data in a variety of other Federal agencies, there is currently no single office or organization in the Federal Government that takes the responsibility for systematically pulling these data together, analyzing them, putting them in one report and disseminating that report annually to legislators, to state and local officials, to businessmen, to environmental groups, and to the ordinary citizens who want to know what is happening with respect to environmental quality.

There are some good data that are collected at USGS, as I have suggested. Data are collected by NASA, by NOAA, by the U.S. Forest Service, but we need a central statistical focal point having to do with the environment in the Federal Government to pull these together and disseminate them in a report.

Now, in an aside, if I might, when I was at CEQ under Gus Speth's chairmanship at the time, we issued one, or possibly two, reports on environmental statistics. But I think Gus will admit it was sort of a haphazard thing that depended on the availability of resources, and it was basically kind of a catch-as-catch-can effort that depended on begging, borrowing—I guess we stopped short of stealing—environmental data from other Federal agencies, but we stopped just short of that.

We did everything we could to try to pull together data to issue a statistical report, but as I say, it was not our purpose even then to issue that every year, and we need a Bureau of Environmental Statistics in the Environmental Protection Agency working with the other Federal agencies to pull together these kinds of environmental data.

Let me suggest two reasons why I think such data will be helpful. One is identifying future environmental problems. I think that is one of the reasons that people most see the need for a Bureau of Environmental Statistics—helping alert us to potential new environmental problems that may require regulations or other kinds of interventions.

We also need a Bureau of Environmental Statistics and the consistent data it would provide so that we can do after-the-fact program evaluation. As an environmental policy analyst, one of the strongest criticisms I would launch at our environmental efforts to date is that we are very good at creating new programs for the EPA to implement and enforce, but we do very little going back after the fact and looking at the successes and failures associated with the programs that we have put in place, and trying to determine how it may or may not be related to the particular kinds of policy interventions that we have pursued. I think a Bureau of Environmental Statistics that made available accurate, timely information on trends in air and water quality, land management, whichever other kinds of data the bureau collected, would make it possible to go back and see where we are succeeding and where we are failing. It might also help us to possibly determine why, what the reasons are for those successes and failures.

So for these and a variety of other reasons which I talk about in my written testimony and in the article I have requested be appended, I think the Bureau of Environmental Statistics is absolutely essential.

If I could, I want to raise one caution with respect to the mandate of the BES that you have identified in this piece of legislation. In Sections 208(c)(2) and 208(c)(4) you suggest or direct that the Bureau of Environmental Statistics not only collect, analyze and disseminate information on ambient environmental conditions and trends, but also provide information about the health and ecosystem effects associated with regulatory interventions. In Section 208(c)(4), you direct the Bureau of Environmental Statistics to also present information on the benefits and costs associated with environmental programs.

While in one sense these functions are the bread and butter of my "real world" job—I work at an organization that makes its living analyzing the economic and other impacts associated with environmental and natural resource initiatives—I just want to raise a caution. In my view, it is much more difficult to translate changes in environmental conditions and trends into specific predictions about improvements in health or aquatic ecosystems, or to analyze the costs and benefits associated with those changes, than it is to measure the concentration of particulate matter of less than 10 microns in diameter in a cubic meter of air, or to determine the fecal coliform count in a gram sample of water drawn from Lake Erie.

I think that the functions that you have identified are ones that the Bureau of Environmental Statistics should pay careful attention to. My only caution is that I want you and your colleagues, and indeed, members of the House of Representatives if, as I hope, legislation like thisproceeds apace there, to be aware of the fact that it is more difficult to do some of the things that you have suggested the bureau should do than other things. I think there is plenty of work for the Bureau to be engaged in over its first years, concentrating on ambient environmental conditions and trends, and I would hate to see any difficulties that the bureau would have in predicting health or aquatic ecosystem effects come to undermine the other very valuable functions of the Bureau.

If I might summarize then, I want to once again express my very strong support for an independent Bureau of Environmental Statistics located within the Environmental Protection Agency. This would be a culmination of a lot of previous effort beginning with administrative efforts at the EPA under Lee Thomas, and efforts that have been accelerated under Bill Reilly and his colleagues at EPA now.

The final essential step is the one that you and your colleagues have taken here, and that is to introduce legislation that would bring the force of law or give the force of law to these efforts, and I want to once again commend you for this and stand ready to answer any questions you may have.

Chairman GLENN. Thank you very much. We have your article, here, of course. I think the one you are referring to is, "Needed: a Bureau of Environmental Statistics"? [1]

Dr. PORTNEY. Yes, sir.

Chairman GLENN. I read that and used that as background for some of our things here today.

First, let me say this. I envision the Bureau of Environmental Statistics not getting into the decisionmaking area so much as providing the basis of information on which decisions can be made. And I think that is going to be a full-time job for quite sometime, because as I have pointed out each day of these hearings, we have, just within our own Committee and our own offices, such a huge amount of information available on statistics from different groups that you can pick any set of statistics and prove just about anything you want to prove.

That overstates it a little bit, but not very much. We find that when we are on the Floor debating a Clean Air Act or meeting in one of these background groups that Senator Lieberman just left to participate in, trying to work some of these things out before we get to the Floor, you find statistics tossed out and refuting data and you don't really know what to believe.

I would like to see this BES become a monitor for all these different sources of information and try and sort some of them out so that we have something that we can rely on a little more than we do now. I guess I would hope it could some day become sort of the authority, like the Bureau of Labor Statistics is now. That has been pretty well accepted. You still have people criticize it, saying it is not adequate, but we base a lot of our economic decisions for the Nation, and companies base their decisions, on BLS statistics, and it has come to have that kind of credibility. I would hope that we can have that same kind of credibility in the environmental area one of these days.

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[1] See p. 528.

Dr. PORTNEY. If I might, let me pursue that analogy, because I think it sheds some light on the distinction I have tried to draw. One of the reasons that the Bureau of Labor Statistics is valuable is because it helps us know what the aggregate unemployment rate is nationwide, or what it might be in Columbus, Ohio, or Detroit, Michigan, or Tallahassee, Florida. If the Bureau of Labor Statistics were also tasked with explaining why unemployment was at the levels that it was at in those places, then it begins to get into an area that is much less definitive and more controversial.

The analogy I am trying to draw with respect to the Bureau of Environmental Statistics is this: if we concentrate on the important role that it can play in pulling together information on what is happening to environmental quality trends in the various parts of the country, and perhaps somewhat less attention to how much are these costing and what are the precise health benefits associated with this, I think it would be confining itself to a similarly more manageable function. I certainly don't want to exclude it from these other areas, but I just want to suggest that to the extent it sticks to the measurement of things that lend themselves to measurement as readily as say unemployment or the price of a dozen eggs or something like that, it is going to be seen as being more successful in its function.

Chairman GLENN. Let me ask both of you a question in a little different area. We could go on with individual questions or specific questions about BES and comparisons and all that.

There is one area that I am a little bit concerned about that I hope we are providing adequate resources for, and that is, we are seeing more and more attention to global concerns, global information flow. Administrator Reilly went to the meeting in The Hague in November and we were the only major country of some 67 nations there that did not have a ministerial or cabinet rank person representing the country.

We should be taking the lead. One reason for upgrading this, is to give us a little more—we know this international situation is going to continue. There is more concern about ozone and global warming and there will be discussions about that.

Two areas need attention on this. One, in your opinion will we be able to get good enough global data through BES and what we envision it doing? There are two questions, that is number one.

The second would be, have we provided adequately in this bill, or do we need to provide more adequately in this bill, for international operations of this new department?

I don't know that anything is necessary, but out of both of your experiences, I would appreciate any comments on whether you think we should make changes to the legislation so that it will be completely at home in the international environment and we won't have to come back a year from now and change into some new structure to enable us to better cope and grope with the international situation.

Do you see any changes necessary? Now, you both follow this field all the time. Since you were both in Government, though, things have changed considerably on the international scene. Do we need to make any additional changes here to be better able to deal with the international situation that is going to need more and more of our effort in the future?

Dr. PORTNEY. If I could, let me respond and make one suggestion. You certainly allude to the collection of international data here. The proposed legislation might be strengthened if you were to explicitly direct the director of the Bureau of Environmental Statistics, working in conjunction with the Secretary of the Department of the Environment, to be directly in contact and to try to synchronize its activities with the ongoing international environmental monitoring network that is currently cosponsored by the United Nations Environmental Program and the World Meteorological Organization.

In thinking about whether there were any international environmental data of sufficient quality to be reported in your Bureau of Environmental Statistics annual report, the one thing that came to mind was the result of annual reporting from the so-called GEMS network, which stands for Global Environmental Monitoring System, I believe. That is an international effort sponsored by UNEP and WHO, which on an annual basis records ambient concentrations of air pollutants in a variety of cities around the world, Calcutta, Brisbane, Teheran, London, some cities in the United States, and it is the one international data base in which I have some confidence and against which I often try to contrast air quality experience in the United States.

I am aware of it because people sometimes talk about poor air quality here, and there are certainly cities where we need to do more. But if one looks at air quality in the most polluted U.S. cities and contrasts it with a number of other cities around the world—Mexico City is coming to be used as a particular horror story—you see that even in the cities where we want to do more in the United States, we stack up quite favorably in international comparisons.

So I think to the extent you could direct the BES to interact with and to try to coordinate efforts with UNEP and WHO, it can both help serve those organizations and communicate its findings and its test protocols and data quality assurance measures to international audiences and also benefit both from the data that is collected by and the procedures that are followed by other international environmental monitoring organizations.

Chairman GLENN. Mr. Speth, are we set up to handle the international job?

Mr. SPETH. I don't think so, Mr. Chairman. First, let me agree with Paul Portney. The BES is not going to be able to collect the international data that you will want, and other members of the Congress will want. If that data is going to be gathered, and it has to be if we are going to succeed in protecting the environment in the 1990s and beyond, it is going to be collected on an international cooperative basis.

And this means, among other things, I think, that we should be supporting the UN agencies that are out there gathering that information. We have not been terribly forthcoming in the United States with our support for the UN Environment Programme, for example, and all the other UN agencies that it cooperates with. Most of the international statistics that we rely on to know of rates of deforestation in various countries, for example, come from the UN Environment Programme and the FAO and other UN bodies.

The goal should be to provide additional mandates for the new department to work with international agencies to strengthen their data gathering efforts and to provide technical assistance and other support. But I also think it means, when it comes time to put the money up for the UN agencies that need it, we have to be more forthcoming.

I want to go beyond the question of the statistics, though, and see if I can answer your question about whether something else needs to be in the legislation which would address international issues more generally. I think the answer is yes. I think there are some needs. There are some areas where you could strengthen the legislation.

We moving into a situation in the United States where the luxury of setting environmental policy by ourselves is fading fast, much as it has faded in the past few decades in Europe where environmental policy has had to be set as a Community matter. And I think we are finding in the United States that we are going to have set our environmental policy increasingly in concert with other countries to deal not only with domestic problems, but transboundary problems and global problems.

So I would think that you could strengthen the legislation by adding additional provisions which would strengthen the hand of the new Department of the Environment in reaching international agreements and in dealing with other governments at conferences of the type that you mentioned that Administrator Reilly attended. I think some thought needs to go into exactly how to do that.

Also, in the future so many environmental problems are going to come from the developing countries, and, if economic momentum develops in Eastern Europe and the Soviet Union, from those areas as well. Right now, we don't have in the United States a first class program of international environmental cooperation. When you get to AID and its programs, many of the countries with which we should be cooperating are not eligible for AID assistance, countries like Brazil and Mexico.

So I think we need a program which could strengthen EPA's capability to engage in international environmental cooperation across a broad range of issues. For example, such a capability could provide technical assistance, training, access to information and expertise, and planning grants aimed at increasing the capacities of developing countries to manage their environmental challenges.

These are all things that the new Department of the Environment could do, and they would pay rich dividends when it comes time to negotiate international agreements and to reach accords with countries like Brazil, where deforestation is causing global-scale complications.

Chairman GLENN. Well, thank you both very much for your comments on this. If you have additional thoughts after you go back and think about this a little bit, we would appreciate your forwarding them to us. We also would appreciate your responding to questions that other members may have that will be submitted to you so your answers can be included in the whole record.

We are shooting to get this out, if we can, and conferenced and over to the White House before April 22nd if we can, the anniversary date, and we would hope the President could be signing it on that date. I don't know whether we can move it that fast or not, but we are going to make every effort to do get out of here.

Thank you very much. Our next witnesses this morning is Mr. J. Dexter Peach, Assistant Comptroller General, General Accounting Office, accompanied by Richard Hembra, Director of Environmental Issues of GAO.

Mr. Peach, welcome back to the Committee and we look forward to your testimony.

TESTIMONY OF J. DEXTER PEACH, ASSISTANT COMPTROLLER GENERAL, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY RICHARD HEMBRA, DIRECTOR, ENVIRONMENTAL ISSUES

Mr. PEACH. Thank you, Mr. Chairman. I would ask that you put my entire statement in the record,[1] and I would like to proceed to highlight a few of the points that I think are particularly important.

Chairman GLENN. Fine. It will be included in its entirety.

Mr. PEACH. I am sure you have heard a lot of support over the previous 2 days, and will continue to hear support for this action to elevate EPA to cabinet status, and maybe I could emphasize a couple of points that we think are particularly important in support of that particular issue.

As I look at it from my perspective, the size of the Federal outlays that are going into the program is important, but more than that, it is also the effect that EPA's programs and activities have in total on our Nation's economy. The cost of environmental clean-up, dealing with environmental problems becomes a very big part of our GNP. It is now about $86 billion a year, so it is a very big and important national issue.

You have alluded to the fact that problems are becoming increasingly international, and also we continue to identify large problems like indoor air pollution, radon, other areas, we continue to add to the environmental problems that we want to deal with. They have not diminished as the years have gone on.

I have visited with this Committee on a number of occasions regarding the problems of the Department of Energy's nuclear facilities and, of course, the environmental clean-up and the way they have dealt with environmental problems over the years has been a big issue there. It is also a big issue with respect to the Department of Defense and other Federal agencies. In my responsibilities at GAO I cover not only energy, but also areas like natural resources, agriculture, transportation, and I see on a repeated basis the interaction of the Environmental Protection Agency with those particular agencies.

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[1] See p. 532.

You have used the term earlier "level playing field" in one reference here, and certainly this is one of the areas where an environmental issue needs to be on a level playing field because of its interrelationship with so many of the other agency issues that we are dealing with. We have seen, based on what has occurred in the past, that those issues have not always been adequately considered and that the environmental agency has been somewhat shut out from having the type of influence that it should be having. So I think that is also a particular important area.

You also referred to the international arena, and the bill includes this Interagency Committee on Global Environmental Change. We think that is an important aspect of what is covered in this bill. We have recently issued a report in GAO, it came out in January, that was titled "Global Warming: Administration Approach Cautious Pending Validation of the Threat."

And it talked about the way in which the global warming policy was being coordinated and the fact that there really was no leadership role that was existing at this point within the Executive Branch in that area. And we have seen some of that continuing caution in the statements of more recent days. But this type of provision included in this legislation maybe would begin to give us some direction and establish some place for a focal point for coordination of the efforts on this area.

Let me also make a point that may not have been discussed before, and that was when we testified before another committee last year on a bill for elevating EPA to cabinet status we looked at some criteria that had been put out by the National Academy of Public Administration that were designed to be looked at the time the Veteran's Administration was elevated to a cabinet agency.

And those were such criteria like program visibility to achieve a broad national goal, facilitating the achievement of cross-cutting national policy goals, and improving an agency's oversight and accountability. And we found in the analysis we did at that time and still believe today, those kind of criteria are certainly ones that a cabinet level agency for the environment meet very clearly, and we think you can make a strong case in terms of how they relate to these criteria.

Let me lastly talk about a little bit of the organization and management issues that we see that are important based on the work that we have done before. You have had some discussion already here about the creation of this center for environmental statistics and environmental indicators. Last year we did a management review at EPA, and among the things that we found was we didn't always find the right kind of links there between what they identified as important problems and their planning and budgeting systems.

We also talked about trying to manage for environmental results. And to manage for environmental results and to see whether you are getting improvement in the environment, you need to have the right kind of indicators and baselines to understand where we are and the kind of information that indicates whether you are seeing improvement and the ability to be able to relate these kind of indicators to program actions that you are taking to see whether the program activities that you are carrying out as an agency are being effective. And if not, then you need to redirect and redefine those programs.

And we found in that management review that often there is a good deal of data that is being collected in EPA, but not much information in terms of how it is pulled together, organized, and being able to be used for effective management of programs. And we think this kind of bureau we are creating, first, to start with, should develop good information on the trends and directions in the environment, to be able to help on developing indicators as to whether we are seeing improvements in terms of the kinds of actions we are taking. This is the kind of thing that is very much needed.

Chairman GLENN. Yesterday someone in their testimony mentioned that we should include in the bill that we require trends. Is that basically what you are talking about? So it is no longer just a snapshot now and no connection to where it came from or where it is going, we should also require trends to be reported?

Mr. PEACH. I think that is right, and whether it occurs in that agency or somewhere within EPA, they need to think about the kind of indicators that indicate whether their programs are being effective in terms of achieving environmental improvement or not.

To give you just a very clear cut example of one way that they may look at how they are managing their programs: In the hazardous waste area, the indicator they are using in number of inspections that they are doing within the agency. Did we do more inspections than last year or not? Is our activity improving?

Well, the other question below that line is gathering some information there about what is being identified as problems by those kinds of inspection activities, and as you do inspections in follow-up years do you see improvement at those locations? And beginning to think about how you could use that for managing and targeting your inspection resources.

We think there is a tie-in between what can be done by this independent bureau that you would set up within EPA and how it would interrelate with the kind of data and information that the agency is gathering. There needs to be that kind of close tie-in and coordination.

It sort of gets to another point. There is point that I had in my testimony talking about another couple of important things that you have laid out that GAO feels strongly about, and that's a Chief Financial Officer, and a Chief Information Resources Officer. We have strongly supported those kinds of positions. We think that is good, but a Chief Information Resource Management officer that you would have in EPA, maybe there needs to be something written in the bill that would indicate the responsibilities of that office to ensure that the way the agency gathers and uses data relates to what this independent Bureau of Environmental Statistics would be doing. Because they both will be in the data collection and generation area, and you want to have as little overlap and duplication and as much mutual support and cooperation as you can get in this area. So we think that is something that could be looked at.

I also wanted to comment briefly on the Commission on Improving Environmental Protection. You know, our work has shown again, in our management review and other things, some of the problems that occur because of lack of unified environmental statutes. It has already been referred to that our environmental statutes have sort of built up over the years. There is not an organic statute that exists for ETA. We think it is important to create a commission that could look at that area.

You have also heard commentary this morning about how we deal with pollution prevention, how we get back at the front end of the pipe so we don't create pollution in the first point. I heard a discussion yesterday when I was over before the House side about whether or not there should be an Assistant Secretary for Pollution Prevention included in the bill, and there was concern about how specific a bill should be in terms of specifying organization questions and issues.

It may be that one of the provisions that you want the commission to look at, as it looks at an organic statute and changes in legislation, is whether we are organized in the best fashion to deal with our environmental problems as we move to the future from where we are right now. And maybe that type of commission could be a body that could consider and look at that issue as opposed to trying legislate specific kinds of fixes at this point in time. Because I also realized that, you want to move this bill and, of course, the more things that you put in to get down to a greater level of specificity, the more difficulty it could create for you in terms of your timetable for moving the bill through.

With that, Mr. Chairman, we would like to open ourselves up to questions.

Chairman GLENN. Thank you. You have already answered some of the questions I was going to ask. I would like to ask about your appearance before the House Government Operations Committee yesterday. Do you find other things that we should be including here that you noted in their bill? You mentioned some of those.

Mr. PEACH. Well, the bill is a pretty tight bill the way that you have it written. The main things that I noted related to this Bureau of Environmental Statistics and how it would work. And I would think that coordination of its activities with the information gathering that will be going on within the agency and what a Chief Information Resource Management Officer is doing is one thing.

The House Committee also has a provision in the portion of their bill that deals with the Bureau of Environmental Statistics which not only would have an advisory committee made up of outside people to advise them, but also would have an interagency committee. This kind of group recognizes that there are a lot of other agencies that are in the business of generating environmental data and are also users of environmental data, and it may be a vehicle for trying to make sure that the data generated by the agency are as useful as possible to the variety of people that would be making use of it. It could also make sure that those agencies where they are gathering environmental data are gathering it in a way so that it could feed into this Bureau of Environmental Statistics, and in as useful a fashion as possible.

Chairman GLENN. You mentioned Chief Financial Officer, too. That is an issue that you have testified on before, and Comptroller General Bowsher has testified on it before also. It has been a long interest here going back over several years. That is other legislation that applies across the Government that we hope to get passed.

Mr. PEACH. Right. I know that he has been working with you on that and he would have felt that I would have been remiss if I would not also have commented on that here today.

Chairman GLENN. You know our efforts in that area, and we thought it was well to, absent a CFO structure for the whole Government, at least put it in any new department, get it established and start working at it from the lower level also.

You mentioned the Commission on Improving Environmental Protection which we wrote into the bill. One reason for that is that when you look at all the different places in Government where there is environmental law or rules or regulations, it becomes so enormous and so overlapping, and to try and pick up every rule across the length and breadth of Government, include them in this and specify their particular function became something that we didn't feel we were even capable of doing.

So we established this commission with the idea that it would be the vehicle that would look at all these things and then come back and see how we straighten out some of the overlapping environmental laws we have. My question to you would be, have you looked into that area and is that something you think GAO should take on? It is a big job.

Have you done any work in that area on how much overlap we have and how we could——

Mr. PEACH. Well, the management review that we did provides a background kind of piece that shows how some of these things overlap or link together and how what happens in one area or dealing with one medium of pollution may create pollution in another area. And we talk about in that report the need, as we move into the 1990s, to look at maybe more integration of our environmental statutes, certainly to look at the needs for an organic statute for EPA.

And I think in the case of a piece of legislation like this, moving to a cabinet level, you have issues that suggests, well, we probably need to look at the whole legislative base that we are operating off of. There are certain organizational issues that we also may want to look at, like movement of other agencies, should other agencies be included here. So it may be better to create this type of commission to look at these issues. Then, of course, these will be opportunity for public comment and then the Congress will have the last word, in terms of having the information and deciding what additional legislating they want to do.

Chairman GLENN. Have they been responsive to this management review you did, and your findings and what you have sent over to them?

Mr. PEACH. Well, EPA has never officially responded.

Chairman GLENN. Were they supposed to?

Mr. PEACH. Yes. They were supposed to respond both to this Committee and to the counterpart House Committee, within 60 days after the report was released, and, of course, that report was released a year and a half or so ago.

We understand their comments are in final form now and will be forthcoming shortly. In discussions we had both with Lee Thomas before he left, and with Administrator Reilly after he has come, and other top people over there, they have been generally supportive of the kinds of findings, the kinds of suggestions we have. I think it is a combination maybe of getting caught in the switch between administrations, and even though this administration has now been in for over a year, they just now are getting to the point where they have a full team of people.

Chairman GLENN. By being supportive, do you mean they are doing something about it or they have just agreed with your criticism?

Mr. PEACH. They agreed with the criticisms and I think they are beginning to do some things in some areas. Admittedly, the kind of agenda we laid out there for them is not a short term agenda. It is a kind of agenda that requires a commitment to begin to move the agency in a different direction in a variety of areas, and it takes some effort to both gear it up and then to keep the momentum going once you start in that direction.

Chairman GLENN. Are there other issues you think warrant priority attention by this commission?

Mr. PEACH. Well, the one that I mentioned that deals with the Commission's looking at how we are currently organized, within the current EPA administration or department, to deal with certain questions. And that could be one way, in particular, to get at pollution prevention, the issue of what more we need to do to be directing ourselves at the prevention of pollution.

Chairman GLENN. In GAO's rather unique position of looking at a number of different Government agencies, you have seen their international operations, their domestic operations and so on. Do you feel we need anything additional in this legislation to allow us to better cope with our increasing international global concern and our working with more and more international organizations or is this adequate?

Mr. PEACH. There is nothing that I see in particular. There was some discussion I heard earlier about the data and whether we would be able to get the kind of data and information. I guess I would be hopeful, even under the way the legislation is laid out, that this Bureau of Environmental Statistics would be alert to the importance of international information and that they would see as a part of their responsibility the gathering of some data in this area and the tying in to the international organizations that are working in this area.

Chairman GLENN. Mr. Hembra, you are the director on environmental issues. I haven't tossed any questions in your direction. You are here accompanying the boss today. I would like to give you a chance now to refute the boss and say what you think he should have said to me.

Do you have any additions to make?

Mr. HEMBRA. I would say, Mr. Chairman, that the boss did a great job and I would support everything he said.

I think it is important to realize that there isn't a piece of legislation that has been created or one that will be created that is capable of addressing every known problem or anticipating the unknowns, and sometimes you can allow the legislation, itself, to get bogged down in an attempt to satisfy everyone. I think when we look at Senate 2006, we see a sound piece of legislation and although it does not necessarily address everything, it positions the new department to begin to address the types of issues that we as a Nation are going to have to deal with over the coming years. With that in mind, I would not spend a whole lot of time trying to satisfy everyone's particular concerns with any particular title within this bill.

Chairman GLENN. You deal very specifically on environmental issues. You have to sift out some of this data and say, I am going to rely on this data from one source and something else from another source, and that is a difficult situation, where Mr. Peach and his superior have to deal more in policy matters perhaps.

Do you have any suggestions for us on this for the Bureau of Environmental Statistics? We have given them a broad mandate and we hope that they can winnow out some of the things that you have to do on a day-in and day-out basis. Do you have any particular advice in that area?

Mr. HEMBRA. Well, I think Mr. Peach has covered that fairly well, Mr. Chairman. I would emphasize that the recommendations that we have made in our general management review with regard to the state of the information systems within the agency, the lack of data, the accuracy of data are the types of things that the creation of a Bureau of Environmental Statistics can begin to look at and, in essence, help the agency sort through some of the rather significant shortfalls in their information management systems.

One of the problems that has plagued this agency for some period of time—and I can tell you there is not a program over at the Environmental Protection Agency that has a good information base for making management decisions. A Bureau of Environmental Statistics, in working with a chief information resource management officer, can begin to sort through and help this agency get a handle on the type of information it needs and give the oversight committees a sense of how this agency is performing and whether it is being effective in bringing about improvements in the environment.

Chairman GLENN. Thank you. Just one other area I wanted to cover and I would do this on behalf of myself, and I am sure for Senator Pryor also, who has looked into these areas in great detail, and started off our hearing the other day in questioning Administrator Reilly as to some of the internal controls at EPA that he views as being completely inadequate; I think he makes a very persuasive case for that.

I know the GAO has been looking into some of these areas also with regard to contracting and consulting services. I think we have about 50 percent of EPA's overall budget devoted to contracted services outside the agency, and the other day David gave several horror stories about how some of that has worked, or how he sees it not working the way it should.

Some of these internal control weaknesses have been traced to financial information management activities that you already mentioned. What is the status of your further investigation of those matters, and do you think EPA is moving to correct those deficiencies?

Mr. PEACH. Well, EPA itself did pick up on a lot of criticisms and did sort of a 90-day review of Superfund and some of the deficiencies in the administration of their program early on, and indicated a number of areas in which it did want to act. But when GAO, working with this Committee and others, took a look at major problem areas in Government that may be subject to managerial abuse and concern at this point in time, we still included EPA contracting, for example, in the Superfund area, as one area that we put on that list. And that is exactly what we are in the process of moving through right now, trying to find out whether the agency is taking action and how effective the actions are likely to be in dealing with some of the root causes of the problems in this area.

It is going to take us some time to dig through that. We hope, as we get towards the middle of this year, to be in a position to give the Congress a report on the status of EPA in this area, as one of the fairly early reports to you on this broader effort that is looking at a number of areas of management abuse problems.

But we do think it is an important area. We have been working with Senator Pryor to look at, among other things, contractors doing inherently governmental functions, which we find is a problem not just at EPA but Department of Energy and other places.

Chairman GLENN. David has done an excellent job in looking into that area, and I have been very congratulatory to him both in public and in private conversations with him. He deserves a lot of credit for sticking on that, working with you people in that area, not only with EPA but in other areas, too.

As I indicated the other day, and I won't get into a long discussion of this, but it is part and parcel of a bigger problem, too, of how we compensate people here in Government. Can we get good people into Government to do our programs in-house? NIH has not hired a new bioscientist, I believe, in 10 years, something like that. They can't get the kind of people they want so they contract out with a pharmaceutical company to do the research that probably should be done in-house. One story after another like that. Until we deal with some of our internal problems here maybe these other problems are going to be very difficult to clear up.

Mr. PEACH. Well, as I said, we have dealt with Department of Energy problems on a number of occasions. You get the feeling, as you go out and visit their facilities, that the contractors are really the people who are in control of the operations out there, and there is a question as to how much control is being effectively exercised by the DOE people on the scene.

Chairman GLENN. Thank you Mr. Peach and Mr. Hembra. We may have additional questions submitted you. We hope you will respond to those as you always do.

Mr. PEACH. We are always pleased to.

Chairman GLENN. Thank you much. Our next panel is Dr. Bruce Karrh, Vice President for Safety, Health and Environmental Affairs, E.I. Du Pont de Nemours and Company; Ron Van Mynen, Vice President for Health, Safety and Environment, Union Carbide Chemicals and Plastics Company; Daniel K. Shipp, Vice President, Public Affairs, National Electrical Manufacturers Association.

Dr. Karrh, we will start off with your testimony this morning, either an abridged version or however you choose to give it. In any event, your entire statement will be included in the record.

TESTIMONY OF BRUCE W. KARRH, PH.D., VICE PRESIDENT FOR SAFETY, HEALTH AND ENVIRONMENTAL AFFAIRS, E.I. DU PONT DE NEMOURS & CO.[1]

Dr. KARRH. thank you very much, Mr. Chairman. I will give an abridged version, and I certainly appreciate the opportunity to meet with you and comment on S. 2006.

I am Bruce Karrh, Vice President of Safety, Health and Environmental Affairs for the DuPont Company whose headquarters are in Wilmington, Delaware, and I appear today at the invitation of the Chairman and Senator Roth. I am very pleased to be able to present the DuPont Company position in support of S. 2006.

We would like to first commend the Senators and their colleagues who are sponsoring the bill that would establish the Department of the Environment and provide for global environmental policy of the United States and for other purposes. The environment, of course, is ultimately global and in some cases quite immediately global. What is done or not done by the people of one nation can affect the safety, health and economy of the people of other nations, whether it relates to rain forest, use of international waterways, or technology adequate to control emissions of harmful substances in the air.

The DuPont Company is particularly conscious of the need for international cooperation in environmental protection. Our operations span the globe and our customers are in virtually every business and industrial sector. We are a diversified chemical, energy and specialty products company with over 140,000 employees operating some 200 manufacturing and processing facilities in about 40 countries and supplying customers in more than 150 countries.

We wholeheartedly support giving the environment departmental status in the Federal Government and giving the head of that department cabinet rank. We believe this has benefits both internationally and domestically. Establishing a cabinet level department for the environment signals to the people of this country and to the world that the United States is as serious about the environment as about other areas of interest represented in the cabinet, from the original foreign affairs, defense, and finance, to the more recent education, energy, health, housing and transportation.

In international relationships and negotiations where position and protocol may be especially important, having cabinet department status should prove very useful, especially since the Secretary will be dealing with his peers from other countries on equal footing. The bill very rightfully recognizes and addresses the global nature of environmental issues and puts in place the structure that is necessary to satisfy the needs of the U.S. to be better able to provide leadership in environmental areas.

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[1] See p. 560 for Dr. Karrh's prepared statement.

All cabinet departments have responsibilities related to environmental conditions, some more so than others, from recommending tax law to overseeing Federal lands, from farm policy to energy production. The Secretary of the Department of the Environment will be in a better position than the administrator of an agency to help cabinet colleagues understand the environmental impacts of actions of their departments and to counsel them and assist them in developing appropriate policy.

Putting environmental responsibilities at the departmental level will automatically upgrade the positions of personnel charged with carrying out the responsibility. This should also improve recruiting, retention, moral, and one would expect, effectiveness of the people who are in the present agency and will be in the Department of the Environment.

Cabinet status for a Government function also carries with it a greater responsibility to consider all possible ramifications of its actions, including the possible effects these actions will have on the ability of U.S. industry to compete in the global marketplace. The Secretary will have equal rank and full participation in the debates shaping Government policies. This requires full consideration of the effects of these policies on all sectors of the U.S. economy.

Going through the bill, I was struck by the detailed descriptions of the proposed department's personnel and their duties. In the business world these days there is sort of a widespread effort to set goals and provide support and to give wide latitude to the people who are charged with meeting these goals to decide how to get the job done. We would encourage the sponsors of the bill to consider that with the Department of the Environment; to provide the administrator more flexibility, or the Secretary more flexibility in being able to organize and carry out the functions within the Department.

Authorizing establishment of an Interagency Committee on Global Environmental Change, as the bill does, should receive further consideration. We certainly encourage interagency cooperation to give focus to the very diverse environmental interests within our Government, and to help resolve differences and come up with a coherent policy. But we question whether legislating a new committee for that purpose is the best way to accomplish that.

I note that the wording of Section 503 refers to integrating Federal environmental law and other authorities. If this language is intended to provide direction for establishment of uniform national policies and rules on environmental issues of national and international scope, while reserving to the state and local Government jurisdictions over state and local issues, we wholeheartedly support this concept. We would urge, however, that either the language of the bill or the legislative history be made clear on this point exactly what is intended by "and other authorities."

Certainly for the manufactures of a product offered across the country, it is costly to be required to meet in different jurisdictions different regulations, all presumably designed to protect the environment. It is costly for the maker and for the consumer. We feel efficiency is better served by uniform regulations.

On the other hand, there may be special circumstances in a given area calling for protection through regulations that are not generally needed throughout all areas. The language proposing the 13 members for the Commission on Improving Environmental Protection does not seem to exclude representatives of business and the public, and at least one advisory group is proposed. However, among the 7 members to be appointed by the President, and the 3 each to be appointed by the Speaker of the House and the Senate Majority Leader, we urge that there also be experts from the private sector included. We believe their direct participation will be an important contribution in the commission's deliberations.

Finally, Mr. Chairman, we support S. 2006 to establish the Department of the Environment because it responds to the people of this country who believe that the environment is important, and we certainly share that belief. Survey after survey of public opinion verifies that environmental protection has become a continuing public concern. Some of the concern is related to health and safety, some of it is related to preservation of wildlife and plant species. In our experience, there is a growing common ground occupied by people and organizations, public and private, profit and nonprofit, who recognize that human beings are not just consumers, but also stewards of what constitutes the environment.

We certainly thank you for the opportunity to appear in support of your bill, S. 2006 and we will be glad to answer any questions at the appropriate time.

Chairman GLENN. Thank you, Dr. Karrh. We will save our questions until everyone has presented their testimony.

Mr. Van Mynen.

TESTIMONY OF RON VAN MYNEN, VICE PRESIDENT FOR HEALTH, SAFETY AND ENVIRONMENT, UNION CARBIDE CHEMICALS & PLASTICS CO., INC.

Mr. VAN MYNEN. Thank you, Mr. Chairman. My name is Ron van Mynen. I am Vice President of Health, Safety and Environment for Union Carbide Chemicals and Plastics Company. This morning I appear on behalf of the Chemical Manufacturers Association, and presently I am chairman of CMA's Health and Safety Committee.

CMA is a nonprofit trade association whose member companies represent more than 90 percent of the productive capacity for basic industrial chemicals in the United States. We support the ideas in S. 2006 that the Environmental Protection Agency should be elevated to a cabinet-level department.

Mr. Chairman, in addition to the obvious merits of this step, there is also a great deal of symbolism in it, especially as you alluded to earlier, that hopefully this legislation can be signed by the President by Earth Day.

As the President and others have said, raising EPA to the status and prestige of a cabinet department will send a very strong message around the world and also here at home. And if there has been any doubt before about the commitment of this country to protecting the environment, there certainly should be none now.

There is another important message in this step, I believe, one I hope everyone sees. It is really a sign of maturity, and a recognition of the very important role that EPA has in maintaining the well-being of the people of this country.

Mr. Chairman, although the EPA and our national commitment to protecting the environment have indeed reached maturity, the way we go about environmental protection sometimes has not. There are still too many occasions when we ignore good advice and allow environmental policies to be determined by emotion and uninformed opinion.

Our country's economic resources are not limitless. How we manage those resources will determine whether we maintain, and indeed enhance, our environmental, our economic, our political, industrial and technological position in the world. And this position certainly is by no means secure.

One of the things we hope we will see happen as a result of this legislation is that the Department of the Environment will have an expanded role in educating the public about environmental issues, especially environmental risks. The public not only needs to know the amount of substances released to the environment, it needs to understand what the numbers really mean in a health and safety setting.

In addition, the public needs to understand the progress we have made in cleaning up and protecting our environment, and as was alluded to earlier, I think the trends are very important, as our statistics improve.

The cost of protecting our environment certainly are enormous. A recent study by the Harvard Institute of Economic Research concludes that the cost of pollution control is now more than 10 percent of the total cost of all Government purchases of goods and services.

It goes on to say, "Pollution abatement has emerged as a major claimant of the resources of the U.S. economy."

Chairman GLENN. If I could interrupt there just a second. I read that and I was impressed with that figure. You specified Government purchases of goods and services though. Does that 10 percent apply across the board to all industry?

Mr. VAN MYNEN. We have done some studies. I can speak for the company I represent, and we have done some studies, and indeed, the health, safety and environmental costs of our manufacturing of chemicals and plastics for our company are right at about 10 percent of our total manufacturing costs.

Chairman GLENN. So it is your impression that this figure would be valid not only for Government but across the board for all industry?

Mr. VAN MYNEN. Yes, that is my feeling. I did slip in health and safety, though. They are all weaved together, but certainly there are common issues, yes.

There is little doubt that these costs will grow even larger. There is no question and really no dispute that we must protect our environment, and to do it we are going to spend a lot of money.

We also must be more responsible with our money. We should make sure that we get at least a dollar's worth of protection for every dollar we spend. Increasingly there is less and less room for wasted effort, really, false starts, and lack of vision.

With this in mind, we suggest that the proposed Commission on Improving Environmental Protection examine two key areas. It should make sure that the new organizations envisioned for the department don't duplicate or overlap existing organizations, and that has been alluded to many times already this week. And second, it should also make sure that the new data collection activities aren't already being accomplished elsewhere within the Government, and it is encouraging to see that you have included this in the bill, that it be synergistic with what is going on and not on top of what is going on.

The new department also should have the ability to assess the costs and benefits and the effectiveness of the measures to improve our environment. After all, all of these costs, whether they are seen costs or behind the scenes costs, ultimately the taxpayers will have to pay for, whether it is higher costs for products and services, higher taxes, and sometimes in lost jobs.

In short, Mr. Chairman, taxpayers should know what they are paying for, whether they are getting a bang for their buck, and whether all of the spending is really necessary.

The new department should also have the ability to assess the effects of regulation and legislation on international competitiveness of a U.S. industry. And it should, as the UN World Commission on Environment and Development said all nations should do, seek to integrate environmental and economic decision making. As the UN commission noted, Mr. Chairman, environmental improvement and economic development are mutually supporting activities.

Likewise, the department should take an even more active role in seeking international cooperation to find international solutions to environmental concerns.

One final point, a lot has been learned about our environment during the last 20 years. We know a lot more about how to protect it, what is good for it and what isn't, and we certainly need to be very sure that this knowledge is used effectively at all times. Science and technology have come a long way during the last 20 years, and one of our biggest and to me one of our most frustrating problems has been the inability to take full advantage of some of our scientific advances.

We have to find a way for our decisions to be guided more by science and technology rather than by emotions or who has the loudest voice. We must not only use the information we have, but we must continue to improve the quality of our information and the scientific tools we use to make decisions, and the quality of, certainly, the environmental data that we use to make these decisions.

And one example of this—and it was alluded to earlier this morning—and that is that theoretical issues are fine, but we also need a lot more actual monitoring to determine the human exposure and its consequences in the environment.

Mr. Chairman, many decisions lie ahead of us. None of them are likely to be easy. Many of them will no doubt be controversial. We will make good decisions though only by basing them on rigorous scientific study and investigation. In my mind, this is one of the biggest environmental challenges of the next decade, and we have got to find solutions to it.

Thank you, Mr. Chairman, for giving me the opportunity to testify on this important piece of legislation. I hope you and the other members of the Committee consider what we have suggested here this morning. We would appreciate the opportunity in the next few days to submit more detailed comments on S. 2006 in writing.

Chairman GLENN. They would be welcome.

Mr. VAN MYNEN. And certainly our industry is prepared to assist the Congress and the Department of the Environment in fulfilling this very important mission. Thanks again and I would be happy to answer questions.

Chairman GLENN. We would welcome any additional comments, certainly.

Our next witness, Mr. Daniel Shipp, Vice President, Public Affairs, National Electrical Manufacturers Association.

TESTIMONY OF DANIEL K. SHIPP, VICE PRESIDENT, PUBLIC AFFAIRS, NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION

Mr. SHIPP. Thank you, Mr. Chairman. I will summarize my remarks as well and ask that my full written testimony be made part of the record.[1]

Chairman GLENN. It will be included in the record.

Mr. SHIPP. We appreciate the opportunity to be here today to endorse the establishment of the Department of the Environment in S. 2006. NEMA, the National Electrical Manufacturers Association, is some 630 companies operating plants in the United States manufacturing products for industry, construction, Government, medicine and consumer use. These companies compete in world markets and they employ over 750,000 Americans.

Like many other industries, ours are heavily regulated, both by the EPA and state environmental agencies. At the same time, these companies and their association share a strong corporate commitment to protecting and preserving the environment. We breathe the same air, drink the same water, enjoy the same sunsets, fish in the same streams as everyone else. We believe that we have as good a claim to the name "environmentalist" as those who make a living at it.

That is why last year NEMA endorsed legislation in both houses to elevate the EPA to cabinet status. We believed then and we continue to believe that the proposal makes sense for several reasons. As the last witness in 3 days of hearings, I don't have to go over the first 2 in any great detail. They have been eloquently and exhaustively stated here.

We agree that environmental policy in the United States needs to be coordinated Government-wide at a level consistent with a seat at the cabinet table. We hear that the 1990s are going to be the decade of the environment, and clearly this calls for leadership at the highest levels of Government.

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[1] See p. 584.

At the same time, we are mindful that no policy exists in a vacuum, that there are real and pressing issues of national security, international relations, industrial and agricultural competitiveness, that will more than likely have to be considered in some environmental preservation decisions. We must accept that tradeoffs are possible without endangering health and the environment, and expect that other executive officials seated at the same cabinet table will be able to make sure that any environmental regulatory approach serves the national interest.

Second, NEMA recognizes the importance of global strategies for environmental protection, and the need to have a senior Government official at the rank equal with the environmental ministers of other major nations in charge. Pressing concerns such as ozone depletion and global warming, acid rain, clean air and water pay no respect to national boundaries. The U.S. needs to be a world leader in environmental preservation, providing technological assistance where it is needed, and inspiration and persuasion to those countries whose priorities may be different.

Finally, NEMA sees in the establishment of a Department of the Environment an opportunity to clearly define the roles of Congress and the Executive Branch. To put it bluntly, we believe that if Congress believes in the EPA enough to give it cabinet stature, it has an obligation to let the department do its work. There is an unfortunate tendency we see in Congress to try to micro manage environmental regulations, setting specific exposure thresholds, naming chemicals, establishing deadlines for action.

The result in some cases has been laws and rules based more on passion and politics than on rigorous scientific examination and assessment of risk to health or the environment.

In my written testimony I cite what we believe to be a prime example of this tendency, the banning of PCBs in the Toxic Substances Control Act. Without going into detail, it is clear today that PCBs are not the bad actors they were thought to be in 1976, but the pervasive public myth that PCBs are a potent human carcinogen will probably never be dispelled. Not only has this cost the Nation billions of dollars, it has needlessly complicated and delayed environmental clean-up of PCB laden spills.

I use the PCB example only to illustrate a point. Congress can be moved by single issue politics, and public perception of environmental hazard that is often out of line with actual risk. Congress should set goals and establish as policy that the Government will work to solve major existing and potential environmental problems, but it should empower the Executive Branch to develop rules and regulations to meet those goals.

The regulatory process may seem slow and cumbersome, but it is designed precisely to ensure that all points of view, as well as scientifically valid risk assessments are heard and considered. Congress does not abdicate its responsibility by relying on the regulatory process. Agencies have the authority to act swiftly when swift action is called for, and Congress can use its oversight authority to ensure that its goals are being met.

NEMA believes that Title V, establishing a commission for improving environmental protection, is a positive step in this direction. This commission will study and recommend administrative and legislative reforms that will strengthen the Federal Government's management of environmental protection. Here is the ideal opportunity, we believe, to elevate environmental preservation above politics.

Today there are bills before the Congress that would spell out specific pollutants which EPA must regulate, specify articles to be recycled, establish allowable concentrations of emissions of various substances from municipal incinerators, even ban outright the use of certain metals.

These are not questions for the Congress to answer. Rather, they are questions for a reliable, adequately funded agency of environmental professionals which has our support and our trust. I hope that this is the goal of this legislation in establishing a Department of the Environment.

I thank you for your time and attention and pledge NEMA's support in helping to ensure a clean and healthy environment for the United States and for the rest of the world.

Chairman GLENN. Good. Thank you very much.

Let me take up your last point. I would agree with you in some areas and disagree with you in others. I hope that EPA, with its new-found clout that we hope we are giving them in a seat at the table, is able to keep on top of these things. What happens sometimes, and it is not as much with EPA perhaps in my own experience as it is with the—I am on the Armed Services Committee, and we ask questions about what is going on in a certain area. Well, we don't get answers or we get a dodge and nobody is taking action in a certain area that we think may be important.

And it goes on and on. We wind up writing it into law, I get accused of micro managing over at the Pentagon, I get written up in the service newspapers about yes, I have done this good and that good, but I am the worst micro manager on the Armed Services Committee.

Well, I'll tell you, with the things we have been involved with over there, I wear that like a badge because some of the things we have developed as a result of that are things they should have down on their own and that they come around later and say were good. I just use that as an example.

I hope that EPA, with what we hope will give it new-found clout, will develop these things and take a leadership role, and will not hang back and see how little they can do. But they will, where they identify specific problems, take action, which is the best way to prevent micro managing. I would prefer doing exactly what you are talking about; give them an outline of what we want and turn them loose to do it. I think Mr. Van Mynen addressed that to some extent also.

Well, I guess you all did in one form or another but you make a good point, and I take that point. I hope that what we have done and the way we have structured this is set up so that that can occur.

Mr. SHIPP. I hope so too.

Chairman GLENN. We haven't tried to spell out specific limits to this polyvinyl whatever it is, and a whole bunch of other things. We haven't tried to specify. What we have tried to do is set up the department so that it will be able to deal with these issues. We will be able to, number one, get information that we feel is more reliable than a lot of the information we get now. And number 2, set up the structure by which they can use that information to do the things that have to be done. That is what we are trying to do with this bill.

Mr. **Shipp**. Well, I think in looking at this bill and looking at the companion measure in the House, we prefer this approach, the Senate approach.

Chairman **Glenn**. Okay. If you have looked at the bill in the House also, did you note anything in their version that we should be giving serious consideration?

Mr. **Shipp**. I don't think so.

Chairman **Glenn**. Mr. Van Mynen.

Mr. **Van Mynen**. No.

Chairman **Glenn**. Dr. Karrh, do you have anything in particular to note?

Dr. **Karrh**. No.

Chairman **Glenn**. Well, if you look at them and have some suggestions, I would be interested in getting them.

Mr. Van Mynen, your point about the 10 percent of total cost interests me. Would you other gentlemen concur with that, or is that within the ballpark of what you feel is added to our cost by environmental concerns?

Dr. **Karrh**. From our experience, that is about the right amount, about a 10 percent cost.

Mr. **Shipp**. That sounds about right.

Mr. **Van Mynen**. Also I might say that for our company, in putting in new capital where we have got major capital projects, we are going to put in a plant, or an expansion of a plant, typically there the number for environmental and health and safety capital issues is between 15 and 20 percent for our industry. It may not be that way for all industry, but certainly the capital intensive chemical industry with these kinds of concerns, handling materials that are flammable and toxic and so forth, we do have a lot of costs to preserve the environment and safety in the community as a part of these capital expenditures.

Chairman **Glenn**. We are going through all the clean air and the toxics and the auto emissions concerns on the bill that is before us in the Senate now, and one of the biggest difficulties we are having is getting good, reliable information on what the costs are going to be. I have asked repeatedly that if we enact the law, put the toxics part into it.

It is pretty vague and indefinite as to exactly how we are going to do this, number one, I have asked repeatedly for cost information, and was given only some very preliminary—and stated as unreliable—figures yesterday as to how much this is going to cost us. I can tell you that even their preliminary look at it shows many, many billions of dollars. We will probably see this 10 percent, which is probably a floor, increase above that in some of the things that we are doing right now.

Dr. **Karrh**. If I could comment on that, Senator Glenn, I think it is very important, the Bureau of Environmental Statistics that is in your bill, because what we are finding, as Mr. Peach said, is that EPA has a lot of data but there is to systematic way to look at the data. There is no way to really analyze it and determine how effective various relations are or ineffective they are and what changes need to be made. I think with the Bureau of Environmental Statistics that you are putting in place, it certainly gives the opportunity to do that, and we would encourage you to leave it as flexible as you have built the flexibility into it, but assure that the department does follow through and use those data.

We have an extremely extensive safety program within DuPont that we are quite proud of, and we cannot ever know how well we have done in providing safe and healthful workplaces unless we have data that we look at and analyze and then use that to learn from so we can adjust our programs as we need to.

Chairman GLENN. It is very difficult sometimes to weigh cost effectiveness and health hazards. If you have something that really is an honest to goodness health hazard, it has to be fixed or it has to be eliminated if it is going to be an honest to goodness health hazard for a substantial number of people.

I don't think most things we deal with fall in that category. Most of them can have a cost effectiveness hooked up with them to some extent, and I think we have to do that as we go along. We didn't write anything into this bill in that particular area, we are just trying to set up the structure, but it is one of the concerns I have developed out of working on the current legislation now on the floor.

Dr. Karrh, you mentioned you are in 40 countries internationally. Do we have the technology to do some of the things that have to be done, or is it going to be technology development going along with this?

Dr. KARRH. Well, I think the answer is that technology will have to develop as we move forward, but it always has and I think it will continue to do so. There is no advantage to a multinational global company like Dupont to go into a developing country with less than the modern technologies, because if you are going into these countries you want to be able to be competitive for the future, and if put in an old, antiquated technology, you will not be very competitive very long. So we try to take our best technologies as we move into countries, but we also have to many times develop new technologies to adapt to the particular needs in the various countries in which we operate.

Chairman GLENN. If you move in as a good world citizen, not just a citizen of that country, or someplace in the Third World; if you move in there, though, as a good citizen and try and clean up the environment, aren't you at a very decided competitive disadvantage with your people already in that country that may not quite share your environmental concerns?

Dr. KARRH. We may be if we just moved into countries without taking that into consideration, but we very carefully decide which countries we think we can go into and be competitive, and if we decide that we cannot go into a market in a particular country without good technology and technology that is protective of the health and environment, then we may decide not to compete in that market.

Chairman Glenn. Thank you very much. We may have additional questions submitted by other Committee members. We hope you could respond to those so that it could be included in our record.

Thank you all very much for being here this morning. It has been very interesting.

The hearing will stand in recess subject to the call of the Chair.

[Whereupon, at 11:30 a.m., the hearing was adjourned subject to the call of the Chair.]

APPENDIX

101st CONGRESS
2d Session

S. 2006

To establish the Department of the Environment, provide for a global environmental policy of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

January 23, 1990

Mr. Glenn (for himself, Mr. Roth, Mr. Lautenberg, Mr. Lieberman, Mr. Kohl, Mr. Levin, and Mr. Bingaman) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To establish the Department of the Environment, provide for a global environmental policy of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Department of the Environment Act of 1990".

(b) Table of Contents.—The table of contents is as follows:

TITLE I—GENERAL FINDINGS

Sec. 101. Findings.

TITLE II—ELEVATION OF THE ENVIRONMENTAL PROTECTION AGENCY TO CABINET LEVEL

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Establishment of the Department of the Environment.
Sec. 204. Assistant Secretaries.
Sec. 205. Deputy Assistant Secretaries.
Sec. 206. Office of the General Counsel.
Sec. 207. Office of the Inspector General.
Sec. 208. Bureau of Environmental Statistics.
Sec. 209. Miscellaneous employment restrictions.
Sec. 210. References.
Sec. 211. Savings provisions.
Sec. 212. Conforming amendments.
Sec. 213. Additional conforming amendments.
Sec. 214. Effective date.

TITLE III—ESTABLISHMENT OF THE INTERAGENCY COMMITTEE ON GLOBAL ENVIRONMENTAL CHANGE

Sec. 301. Findings.
Sec. 302. Establishment.
Sec. 303. Functions of the Committee.
Sec. 304. Relation to other laws.
Sec. 305. Effective date.

TITLE IV—ENVIRONMENTAL ROLE OF THE UNITED STATES IN INTERNATIONAL ORGANIZATIONS TO WHICH IT BELONGS

Sec. 401. Findings.
Sec. 402. Multilateral lending considerations for energy conservation and environmental protection.
Sec. 403. International energy conference.
Sec. 404. Multilateral global climate protection convention.
Sec. 405. International carbon dioxide monitoring program.
Sec. 406. Relation to other laws.

TITLE V—ESTABLISHMENT OF THE COMMISSION ON IMPROVING ENVIRONMENTAL PROTECTION

Sec. 501. Findings.
Sec. 502. Establishment; membership.
Sec. 503. Commission responsibilities.
Sec. 504. Report to the President and Congress.
Sec. 505. Commission staff.
Sec. 506. Advisory groups.
Sec. 507. Funding; authorization of appropriations.

TITLE I—GENERAL FINDINGS

SEC. 101. FINDINGS.

The Congress finds that—

(1) the Earth's environment is being altered by human activities such as the generation of solid and toxic wastes, the generation of water and air pollution, inefficient energy utilization, and poor land management practices;

(2) these environmental effects have serious implications for the Earth's ecosystems, agricultural production, water supply, air quality, human health, wetlands, and climate;

(3) Federal energy, natural resources, and environmental policies must be coordinated to take account of the fragility of the Earth's ecosystem; and

(4) adoption and implementation of a high-level, coordinated Federal policy which addresses the environment on a national and international level is necessary to protect the Earth's ecosystem.

TITLE II—ELEVATION OF THE ENVIRONMENTAL PROTECTION AGENCY TO CABINET LEVEL

SEC. 201. SHORT TITLE.

This title may be cited as the "Department of the Environment Act."

SEC. 202. FINDINGS.

The Congress finds that—

(1) recent concern with Federal environmental policy has highlighted the necessity of assigning to protection of the domestic and international environment a priority which is at least equal to that assigned to other functions of the Federal Government;

(2) protection of the environment increasingly involves negotiations with the representatives of foreign states, a majority of whom are of minister status; and

(3) the size of the budget and the number of Federal civil servants devoted to tasks associated with environmental protection is commensurate with departmental status.

SEC. 203. ESTABLISHMENT OF THE DEPARTMENT OF THE ENVIRONMENT.

(a) REDESIGNATION.—The Environmental Protection Agency is hereby redesignated as the Department of the Environment (hereafter referred to as the "Department") and shall be an executive department in the executive branch of the Government.

(b) SECRETARY OF THE ENVIRONMENT.—(1) There shall be at the head of the Department a Secretary of the Environment who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(2) The Secretary may not assign duties for or delegate authority for the supervision of the Assistant Secretaries, the General Counsel, the Director of Environmental Statistics, or the Inspector General of the Department to any officer of the Department other than the Deputy Secretary.

(c) DEPUTY SECRETARY.—There shall be in the Department a Deputy Secretary of the Environment, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such responsibilities as the Secretary shall prescribe and shall act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the Office of Secretary.

(d) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of a Secretary and a Deputy Secretary and may include an Executive Secretary.

SEC. 204. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Assistant Secretaries, not to exceed 10, as the Secretary shall determine, each of whom—

(1) shall be appointed by the President, by and with the advice and consent of the Senate; and

(2) shall perform such responsibilities as the Secretary shall prescribe.

(b) RESPONSIBILITIES OF ASSISTANT SECRETARIES.—The Secretary shall assign to Assistant Secretaries such responsibilities as the Secretary considers appropriate, including, but not limited to—

(1) enforcement and compliance monitoring;

(2) research and development;

(3) air and radiation;

(4) water;

(5) pesticides and toxic substances;

(6) solid waste;

(7) hazardous waste;

(8) hazardous waste cleanup;

(9) emergency response;

(10) international affairs;

(11) policy, planning, and evaluation;

(12) intergovernmental and public affairs; and

(13) administration and resources management, including financial and budget management, information resources management, procurement and assistance management, and personnel and labor relations.

(c) DESIGNATION OF RESPONSIBILITIES PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular responsibilities of the Department such individual shall exercise upon taking office.

(d) CONTINUING PERFORMANCE OF ASSISTANT SECRETARY RESPONSIBILITIES PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the responsibilities required by this section to be performed by an Assistant Secretary of the Department may continue to perform such responsibilities until such responsibilities are assigned to an individual appointed as [illegible] Assistant Secretary of the Department under this Act.

(e) CHIEF FINANCIAL OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose responsibilities include financial management as the Chief Financial Officer of the Department. Such individual shall be selected on a basis of demonstrated ability in financial management.

(2) The Chief Financial Officer shall—

(A) be the principal financial management advisor to the Secretary;

(B) develop and maintain financial management systems for the Department, including accounting and related transaction systems, internal control systems, financial reporting systems, credit, cash, and debt management systems which would provide for the—

(i) development and maintenance of consistent, compatible and useful financial data;

(ii) development and reporting of cost information; and

(iii) integration of accounting and budget information;

(C) supervise and coordinate all financial management activities and operations of the Department, including—

(i) the development of financial management budgets;

(ii) the approval and management of financial management system design or enhancement projects;

(iii) management of internal control processes;

(iv) the development of long-range financial management plans; and

(v) oversight over credit and cash management, credit extension, debt servicing, debt collection, and other credit management activities;

(D) monitor the financial execution of the Department's budget in relation to actual expenditures and prepare timely performance reports for senior managers; and

(E) issue such policies or directives as may be necessary to carry out this section.

(f) CHIEF INFORMATION RESOURCES OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose responsibilities include information management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) The Chief Information Resources Officer shall—

(A) advise the Secretary on information management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained with Department information systems; and

(iv) the development and annual revision of a 5-year plan for meeting the Department's information technology needs; and

(C) report to the Secretary as required under section 3506 of title 44, United States Code.

SEC. 205. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Deputy Assistant Secretaries as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) MINIMUM NUMBER OF DEPUTY ASSISTANT SECRETARY POSITIONS IN THE COMPETITIVE SERVICE.—At least one-half of the number of positions established under subsection (a) and filled under subsection (b) shall be in the competitive service.

(d) FUNCTIONS.—(1) Subject to paragraph (2), functions assigned to an Assistant Secretary under section 204(b) may be performed by one or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

(2) The following functions may be performed by a Deputy Assistant Secretary only if such Deputy Assistant Secretary is in a competitive service position:

(A) Personnel management and labor relations functions.

(B) Equal opportunity functions.

SEC. 206. OFFICE OF THE GENERAL COUNSEL.

There shall be in the Department the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

SEC. 207. OFFICE OF THE INSPECTOR GENERAL.

The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978, is hereby redesignated as the Office of Inspector General of the Department of the Environment.

SEC. 208. BUREAU OF ENVIRONMENTAL STATISTICS.

(a) ESTABLISHMENT.—There is established within the Department an independent Bureau of Environmental Statistics (hereafter referred to as the "Bureau"). The Bureau shall be responsible for—

(1) assembling a comprehensive set of environmental quality measures, not necessarily limited to those aspects of the environment under jurisdiction of the Department; the measures should include (but are not limited to) data—

(A) on the nature and amount of pollutants in the environment; and

(B) regarding the effects on the public and the environment of those pollutants;

(2) promulgating guidelines for the collection of the data required for the measures under paragraph (1) to assure that the data are accurate, reliable, relevant, and in a form that permits systematic analysis;

(3) coordinating the collection of such measures with related information-gathering activities conducted by other Federal agencies; (except the Bureau shall not collect data if the Bureau can obtain that data more efficiently and with equal reliability from another agency and such other agency is already collecting such data);

(4) making readily accessible the data required for the measures under paragraph (1);

(5) preparing, in cooperation with other Federal agencies, the report required under section 201 of the National Environmental Policy Act of 1969 (42 U.S.C. 4341); and

(6) fulfilling the duties and functions under paragraphs (1), (2), (6), and (7) of section 204 of the National Environmental Policy Act of 1969 (42 U.S.C. 4344(1), (2), (6), and (7)).

(b) DIRECTOR OF ENVIRONMENTAL STATISTICS.—The Bureau shall be under the direction of a Director of Environmental Statistics (hereafter referred to as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be a qualified individual with experience in the collection and analysis of environmental statistics. The Director shall report directly to the Secretary. The Director shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) ENVIRONMENTAL STATISTICS ANNUAL REPORT.—On February 1 of the year following the date of the enactment of this section and annually thereafter, the Director shall submit to the President an Environmental Statistics

Annual Report (hereafter referred to as the "Report"). The Report shall include but not be limited to—

(1) data on environmental quality as referred to in sections 201(1) and 204(6) of the National Environmental Policy Act of 1969, (42 U.S.C. 4341(1) and 4344(6)), including the status and condition of the air, aquatic, and terrestrial environments, changes to those environments over time, trends in such conditions and changes, and the underlying causes of the changes;

(2) data on the health of human and nonhuman species and ecosystems;

(3) documentation of the method used to obtain and assure the quality of the data presented in the Report;

(4) economic information on the current and projected costs and benefits of environmental protection; and

(5) recommendations on improving environmental statistical information.

(d) DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Director under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

(e) Continuing Performance of the Functions of the Director Pending Confirmation.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by the Director may continue to perform such functions until such functions are assigned to an individual appointed as the Director under this Act.

(f) Advisory Council on Environmental Statistics.—The Director shall appoint an Advisory Council on Environmental Statistics, comprised of no more than 6 private citizens who have expertise in environmental statistics and analysis, to advise the Director on environmental statistics and analyses, including whether the statistics and analyses disseminated by the Bureau are of high quality and are based upon the best available objective information. The Council shall be subject to the provisions of the Federal Advisory Committee Act.

(g) Bureau Authorization of Appropriations.—There is hereby authorized to be appropriated $2,800,000 in fiscal year 1991 and $5,400,000 in fiscal year 1992 to carry out the provisions of this section.

SEC. 209. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) Limitation on Number of Noncareer Senior Executives.—Notwithstanding section 3134(d) of title 5, United States Code, the number of Senior Executive Service positions in the Department which are filled by noncareer appointees in any fiscal year may not exceed 12 per cent of the total number of senior executives employed in Senior Executive Service positions in the Department at the end of the preceding fiscal year.

(b) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—Except as otherwise provided in this Act, political affiliation or political qualification may not be taken into account in connection with the appointment of any person to any position in the career civil service or in the assignment or advancement of any career civil servant in the Department.

(c) REPORTS ON IMPLEMENTATION.—The Secretary, at the end of each of the first 4 fiscal years following the date of enactment of this title, shall report to the Senate Committees on Governmental Affairs and Environment and Public Works and to the House of Representatives on the estimated additional cost of implementing this title over the cost as if this title had not been implemented, including a justification of increased staffing not required in the execution of this title.

SEC. 210. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining—

(1) to the Administrator of the Environmental Protection Agency shall be deemed to refer to the Secretary of the Environment;

(2) to the Environmental Protection Agency shall be deemed to refer to the Department of the Environment;

(3) to the Deputy Administrator of the Environmental Protection Agency shall be deemed to refer to the Deputy Secretary of the Environment; or

(4) to any Assistant Administrator of the Environmental Protection Agency shall be deemed to refer to an Assistant Secretary of the Department of the Environment.

SEC. 211. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of the Environmental Protection Agency, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Environmental Protection Agency; and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Environment, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this Act shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall abate by reason of the enactment of this Act.

(e) Property and Resources.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department.

SEC. 212. CONFORMING AMENDMENTS.

(a) Presidential Succession.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of the Environment".

(b) Definition of Department, Civil Service Laws.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of the Environment".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following: "Secretary of the Environment".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking out "Administrator of Environmental Protection Agency" and inserting in lieu thereof "Deputy Secretary of the Environment".

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Inspector General, Environmental Protection Agency" and inserting in lieu thereof "Inspector General, Department of the Environment"; and

(2) by striking each reference to an Assistant Administrator of the Environmental Protection Agency and by adding at the end thereof the following: "Assistant Secretaries, Department of the Environment (10). "General Counsel, Department of the Environment.".

(f) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 2(1)—

(A) by inserting "the Department of the Environment,": after "Veterans Affairs,"; and

(B) by striking out "The Environmental Protection Agency,";

(2) in section 11(1) by striking out "or Veterans Affairs" and inserting "Veterans Affairs, or the Environment,"; and

(3) in section 11(2) by striking out "or Veterans Affairs" and inserting "Veterans Affairs, or the Environment,".

SEC. 213. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Governmental Affairs and the Committee on Environment and Public Works of the United States Senate and the appropriate committees of the House of Representatives, the Secretary of the Environment shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to the United States Code, and to other provisions of law, to reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the effective date of this Act.

SEC. 214. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on such date during the 6-month period beginning on the date of enactment, as the President may direct in an Executive order. If the President fails to issue an Executive order for the purpose of this section, this Act and such amendments shall take effect on January 20, 1991.

TITLE III—ESTABLISHMENT OF THE INTERAGENCY COMMITTEE ON GLOBAL ENVIRONMENTAL CHANGE

SEC. 301. FINDINGS.

The Congress finds that—

(1) problems of global environmental change, including, but not limited to, changes in climate, depletion of the stratospheric ozone layer, loss of biodiversity and ecosystems (especially tropical rain forests), disposal of wastes, and acidification of the biosphere, must command the coordinated attention of the United States at both domestic and international levels;

(2) development of effective policies to mitigate and cope with human-induced global changes will rely on greatly improved scientific understanding of global environmental processes and on the ability to distinguish between the effects of human activities and the results of natural change;

(3) new developments in interdisciplinary earth sciences, global observing systems, and computing technology make possible significant advances in the

scientific understanding and prediction of global changes and their effects;

(4) global environmental change scientific research is coordinated by, among others, the Committee on Earth Sciences of the Federal Coordinating Council on Science, Engineering, and Technology within the Office of Science and Technology Policy and the National Climate Program Office in the National Oceanic and Atmospheric Administration of the Department of Commerce;

(5) to maximize the benefit of this scientific research effort, there must be a parallel policy research effort to provide a basis for international and related domestic policy recommendations; these should evolve in accordance with future gains in scientific understanding of global environmental change;

(6) a coordinating, interagency Committee is required to oversee the design and implementation of Federal policy responses to problems of global environmental change; and

(7) a Committee with such responsibilities should be Cabinet-level and report directly to the President.

SEC. 302. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is authorized to be established, within the Executive Office of the President, the

Interagency Committee on Global Environmental Change (hereafter referred to as the "Committee") which shall be composed of—

(1) the Secretary of the Environment;

(2) the Secretary of Energy;

(3) the Secretary of the Interior;

(4) the Secretary of Commerce;

(5) the Secretary of Transportation;

(6) the Secretary of Health and Human Services;

(7) the Secretary of State;

(8) the Secretary of Agriculture;

(9) the Director of the Office of Management and Budget;

(10) the Director of the National Science Foundation;

(11) the Administrator of the National Aeronautics and Space Administration;

(12) the Attorney General of the United States;

(13) the Director of the White House Office of Science and Technology; and

(14) the Chairman of the Council on Environmental Quality.

(b) OTHER OFFICIALS AND CHAIRMAN.—The President may name to the Committee such other officers and officials as he deems advisable. The President shall designate a member of the Committee to serve as Chairman of the Committee.

(c) ADMINISTRATIVE PROVISIONS.—(1) The Committee shall appoint an Executive Director who shall be compensated at a rate not to exceed the rate of basic pay prescribed for level IV of the Executive Schedule under section 5316 of title 5, United States Code. With the approval of the Committee, the Executive Director may appoint and fix the compensation of not more than 10 additional technical staff members for the Committee.

(2) Upon the request of the Committee, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Committee to assist the Committee in carrying out its duties.

(3) The Office of Administration shall provide to the Committee such administrative and support service as the Committee may request.

SEC. 303. FUNCTIONS OF THE COMMITTEE.

(a) FUNCTIONS.—The Committee shall provide advice and assistance to the President in—

(1) coordinating the domestic and international programs, plans, and policies of all Federal agencies related to global environmental change, including—

(A) surveying the programs, plans, policies, and accomplishments of all Federal departments and agencies engaged in global environmental change activities; and

(B) ensuring cooperation among Federal departments and agencies with respect to their global environmental change activities;

(2) developing and transmitting to the Congress, no later than September 1 of each year, a policy plan which—

(A) covers the upcoming fiscal year;

(B) is parallel to and commensurate with the scientific research coordinated by, among others, the Committee on Earth Sciences and the National Climate Program Office; and

(C) ensures that Federal policy responses to global environmental change problems—

(i) are effectively coordinated among all Federal agencies, among all United States-supported bilateral and multilateral aid institutions (including, but not limited to, the United States Agency for International Development, the International Energy Agency, the World Bank, the International Monetary Fund, the United Nations, the African Development Bank, the Asian Development Bank, and the Inter-American Development Bank), and among other international organizations to which the United States belongs; and

(ii) are designed significantly to improve the global environment;

(D) may make recommendations for legislation as the President considers necessary or desirable for the attainment of the objectives identified by the Committee;

(3) develop and transmit to the Congress on September 1 every other year a report detailing the Committee's progress toward meeting the goals in the plan required by paragraph (2).

(b) CONSULTATIONS.—In carrying out this title, the Committee shall as they may find necessary and appropriate, consult with such other Federal interagency and advisory groups (including, but not limited to, the White House Economic Policy Council and the White House Domestic Policy Council) and non-Federal organizations as State governments, scientific and public policy research institutions, universities, and industry.

SEC. 304. RELATION TO OTHER LAWS.

The President and the Committee shall ensure that the activities carried out by the Department of the Environment and the Department of State under the Global Climate Protection Act of 1987 (15 U.S.C. 2901 note; Pub. Law 100–204, sections 1101–1106) are considered in the conduct and planning of a coordinated Federal global environmental program.

SEC. 305. EFFECTIVE DATE.

The provisions of this title shall take effect on such date during the six-month period beginning on the date of enactment, as the President may direct in an Executive Order. If the President fails to issue an Executive Order for the purpose of this section, this title shall take effect on July 1, 1991.

TITLE IV—ENVIRONMENTAL ROLE OF THE UNITED STATES IN INTERNATIONAL ORGANIZATIONS TO WHICH IT BELONGS

SEC. 401. FINDINGS.

The Congress finds that—

(1) the United States should continue to provide leadership in developing and implementing an international response to global environmental change;

(2) the most effective policies for addressing global environmental change will involve issues of the generation and disposal of wastes, the generation of water and air pollution, energy generation and utilization, sustainable development, and land management; and

(3) dealing with these issues will require concerted international agreement and action.

SEC. 402. MULTILATERAL LENDING CONSIDERATIONS FOR ENERGY CONSERVATION AND ENVIRONMENTAL PROTECTION.

The Congress strongly urges the Secretary of the Treasury, with the advice of the Committee established in title III, to instruct the United States Executive Director to each of the multilateral development banks to consider and promote the energy conservation and environmental protection efforts of borrowing countries when issuing loans and other financial or technical assistance.

SEC. 403. INTERNATIONAL ENERGY CONFERENCE.

The Secretary of State, in consultation with the Secretary of Energy and the Secretary of the Environment, and with the advice of the Committee established in title III, is authorized and strongly urged to convene an international meeting to be held in the United States with invitations to representatives of all countries of the world, the purpose of which shall be to encourage the exchange of information concerning energy efficiency and renewable energy resources that are environmentally acceptable and ecologically sustainable.

SEC. 404. MULTILATERAL GLOBAL CLIMATE PROTECTION CONVENTION.

(a) INTERNATIONAL MEETING.—The Secretary of State in consultation with the Secretary of the Environment and the United States science agencies (such as the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and the National Science Foundation), and with the advice of the Committee established in title III, is authorized and strongly urged to convene an international meeting to be held in the United States with invitations to representatives of all countries of the world, the purpose of which shall be to encourage actively the adoption of a multilateral global climate protection convention.

(b) ADDITIONAL MEETINGS.—The Secretary of State, in consultation with the Secretary of Environment, is authorized and strongly urged to sponsor other meetings with the goal that the convention is opened for signature no later than the end of 1993.

SEC. 405. INTERNATIONAL CARBON DIOXIDE MONITORING PROGRAM.

The President, with the advice of the Committee established in title III, shall encourage the establishment of an office of the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) to monitor annual generation of carbon dioxide and estimated trace gases on a country-by-country basis. That office shall also be responsible for assisting global negotiations and ultimately administering a global protocol.

SEC. 406. RELATION TO OTHER LAWS.

The activities authorized under this title are to be carried out in a manner consistent with the duties assigned the Department of Environment and the Department of State under the Global Climate Protection Act of 1987 (15 U.S.C. 2901 note; Pub. Law 100–204, sections 1101–1106).

TITLE V—ESTABLISHMENT OF THE COMMISSION ON IMPROVING ENVIRONMENTAL PROTECTION

SEC. 501. FINDINGS.

The Congress finds that Federal environmental statutes and other environmental authorities have resulted in inconsistent approaches to regulating pollutants and problems with cross-media and residuals management, and numerous Federal agencies, offices, and bureaus charged with environmental protection responsibilities.

SEC. 502. ESTABLISHMENT; MEMBERSHIP.

(a) ESTABLISHMENT.—There is established the Commission on Improving Environmental Protection (hereafter referred to as "the Commission") whose 13 members other than the Chairman shall be composed of experts in governmental organization (with emphasis on environmental organization), management of organizations and environmental regulation and improved environmental governmental service delivery, including—

(1) seven members to be appointed by the President;

(2) three members to be appointed by the Speaker of the House; and

(3) three members to be appointed by the Senate Majority Leader.

(b) CHAIRMAN.—The Chairman of the Commission shall be appointed by the President in consultation with the Congress.

(c) EX OFFICIO MEMBER.—The Secretary of the Department of the Environment (hereafter referred to as "the Department") shall be a non-voting ex officio member of the Commission.

SEC. 503. COMMISSION RESPONSIBILITIES.

The Commission shall be responsible for examining and making recommendations on integrating Federal environmental law and other authorities to improve the ability of the United States to protect the environment. The Commission shall make recommendations and otherwise advise the President and Congress on—

(1) the need for comprehensive pollution control administrative and legislative reforms that would consolidate, rationalize, and strengthen the management of Federal environmental protection;

(2) the advantages and disadvantages of unifying existing major statutory authorities;

(3) new or modified institutional arrangements, processes, or regulations that would improve the integration and delivery of Federal environmental protection, research, and planning programs; and

(4) specific steps and proposals for implementing the Commission's recommendations.

SEC. 504. REPORT TO THE PRESIDENT AND CONGRESS.

The Commission shall report to the President and the Congress on its investigation, findings, and recommendations in an interim report no later than 12 months after the effective date of this title, and in a final report no later than 24 months after the effective date of this title. The interim report shall be made available for public review and comment, and the comments taken into account in finalizing the report.

SEC. 505. COMMISSION STAFF.

The Commission shall appoint an Executive Director who shall be compensated at a rate not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 title 5, United States Code. With the approval of the Commission the Executive Director may appoint and fix the compensation of staff sufficient to enable the Commission to carry out its duties.

SEC. 506. ADVISORY GROUPS.

The Chairman shall convene at least one advisory group to assist the Commission in developing its recommendations. One advisory group shall be composed of past staff of the Department of the Environment and its predecessor Environmental Protection Agency, other Federal and State officials experienced in administering environmental protection programs, members of the regulated community and members of public interest groups organized to further the goals of environmental protection.

SEC. 507. FUNDING; AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $3,000,000 in fiscal year 1991 and $5,000,000 in fiscal year 1992 to carry out the provisions of this title.

STATEMENT OF
WILLIAM K. REILLY
ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

FEBRUARY 6, 1990

I am pleased to testify before you today in support of Senate bill 2006, which would create a Cabinet-level Department of the Environment. In his eloquent State of the Union address last week, President Bush reiterated his support for this legislative initiative. His endorsement reflects this Administration's commitment to the American people that the environment has moved from the margins to the mainstream in our government's policies and decisions. The bipartisan nature of the proposal before you clearly affirms the broad support and the united will of the American people on the significance of environmental issues.

I congratulate you, Mr. Chairman, Senator Roth, and the other members of the Committee for your joint sponsorship of the measure.

The issue that must be addressed is the need for elevation of the Environmental Protection Agency (EPA) to a Department of the Environment. The President could not be more accessible and forthcoming in soliciting my advice and including me in all relevant Cabinet meetings and other deliberations at the highest levels of our government. I have no cause to complain. Yet at this stage in EPA's evolution and at this point in the maturation of the environmental movement, creating a Cabinet Department of the Environment is a timely and appropriate step. The role of the environment in every facet of our society and our economy has grown dramatically over our 20-year history. And it will continue to grow. We are faced with a daunting spectrum of global and domestic environmental issues from climate change to air quality to waste reduction. Creation of the Department of the Environment in 1990 would reflect this reality and establish the Department as a partner with other Cabinet Departments as they pursue their mandates.

While some might argue that the proposed legislation merely codifies the reality of the Bush Administration, I believe this bill is most significant for its longterm effect: such a law would formalize the way in which high-level federal decisions are made. The chair of an invitee is removable, and a guest--particularly one charged with the range of controversial issues before EPA--can risk overstaying his or her welcome.

Joining the Cabinet is a concrete step in integrating environmental issues across Departmental lines. It is essential that an agency whose priority is the environment be in a position, as an equal, to cooperate with the Cabinet Departments that oversee the nation's economic, military, and general well-being. S. 2006 institutionalizes the environment's "place at the table," elbow to elbow with those affected by environmental laws, policies, and programs, and, in turn, whose actions inevitably touch our activities and responsibilities at EPA.

As we progress in our understanding of the requisites for further environmental progress--that is, a growing focus on pollution prevention--we appreciate all the more the necessity of fostering greater cooperation between environmental policy and energy, agricultural, economic, transportation, and other domestic policies. The Cabinet Departments, including Agriculture, Commerce, Energy, Health and Human Services, Interior, Justice, State, Transportation, and Treasury have their missions. In pursuit of their missions, these Departments often undertake actions that profoundly affect the environment. Working within the Cabinet as a full partner would help ensure full consideration of environmental factors to ensure sensible, responsible, well-informed policies government-wide.

As President Bush stated, elevating EPA provides "not more bureaucracy and not more red tape, but the certainty that here at home, and especially in our dealings with other nations, environmental issues have the status they deserve." The significance of a Cabinet Secretary of the Environment will not be lost abroad. This official commitment affects political protocol and stature and it translates into parity with foreign ministries of the environment in the complex international activities that will figure prominently in our consideration of global and environment problems.

We understand increasingly that pollution ignores political boundaries. Similarly, one nation's actions affect many others. It is, therefore, very much within the interest of the American people to foster international cooperation on environmental protection as a nation with a Cabinet-ranked Secretary of the Environment.

EPA's international agenda will continue to expand rapidly in the next few years. As you know, I led the U.S. delegation to the Noordwijk Ministerial Conference last November, and EPA will continue to play an active role in developing our government's position on global climate change. In the next six months alone, EPA will participate in international discussions and negotiations on a wide range of global environmental issues, including global climate change, stratospheric ozone depletion, and sustainable, environmentally sound, economic development.

EPA also is working to strengthen bilateral environmental relations throughout the world. In accord with President Bush's Eastern European initiative announced last July, for example, we are now working with Hungary on the establishment of a regional environmental center in Budapest. Scheduled to open next summer, the Center will assist Central and Eastern European nations in addressing critical environmental problems throughout the region. We also will be working with numerous other Nations throughout the world -- both industrialized and developing -- to enhance our own understanding of the critical environmental issues facing us and to assist other Nations in developing and instituting their own environmental protection programs.

Let me address some other aspects of the legislation. We at EPA are confronted constantly with the need for policies and solutions that cut across office and program structures. Of necessity, we have become creative at weaving together the various media-specific threads of domestic environmental laws and policies. Title V of the proposed bill, which would establish a Commission on Improving Environmental Protection, is a welcome step toward a careful examination of whether adjustments in federal environmental activities are needed, and, if so, what kind.

Further, the Bureau of Environmental Statistics proposed in Section 208 could improve dramatically our ability to assess environmental conditions and trends, and the underlying causes. Specifically, the Bureau's statistical analysis, data collection, and reporting functions will improve the Nation's ability to measure performance in protecting the environment.

I wish to reaffirm the Administration's commitment to speedy creation of a Cabinet Department of the Environment. We take this legislation seriously and are well aware of the need to work together to avoid the "Christmas Tree" syndrome--that is, hanging too many ornaments on an otherwise desirable and sensible bill. I plan to submit for the hearing record my comments on specific provisions of S. 2006, including organizational issues, departmental functions, and authorities intended to enable a Department of the Environment to function effectively.

I can think of no other achievement as worthy of honoring the 20th Anniversaries of Earth Day and EPA--save perhaps early passage of the President's Clean Air legislation. The formidable environmental agenda before us at the start of this first year of the new decade is a Cabinet-sized responsibility.

I look forward to your continued strong leadership, Mr. Chairman and members of the Committee, and to working with you and your staff to achieve Cabinet rank for the Department of the Environment. Thank you.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 31 1990

OFFICE OF CONGRESSIONAL
AND LEGISLATIVE AFFAIRS

The Honorable John Glenn
Chairman
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510-6250

Dear Mr. Chairman:

Attached are the Environmental Protection Agency's responses to the Committee's and Senator Pryor's questions of May 25, 1990 regarding S. 2006. We understand that the responses will be made part of the record of the February 6-8, 1990 hearing on S. 2006.

We appreciate the opportunity to participate in your consideration of a Cabinet-level Department of the Environment. Please let us know if you have any additional questions.

Sincerely,

Deborah A. Strey

Patrick H. Quinn
Assoicate Administrator

Attachments

Printed on Recycled Paper

ATTACHMENT

Responses to Follow-Up Questions

ENFORCEMENT.

Question: In hearings before this Committee in November, 1989, the EPA IG testified that some EPA enforcement penalties had been reduced up to 98 percent, some were never collected, and actual compliance with orders never monitored. It seems clear that penalties are not sufficient to remove the economic incentive to violate laws -- effectively making EPA's fines a mere "license to pollute." Indeed, the EPA IG agreed with the observation that these practices amounted to "forceless enforcement." In your confirmation hearings, the committee nearly unanimously stressed a strong enforcement program. What are you going to do to see that such a program is in place and implemented?

Answer:
Introduction. Enforcement has a unique and powerful role to play in accomplishing the national environmental mission. It is one of the means through which we assure that the environmental benefits of our laws and regulations are actually realized. EPA and the States have a strong base enforcement program that has produced record levels of activity, resulting in improvements in environmental quality that could not have been made without a strong Federal/State program to discover and correct violations of various enabling statutes and regulations. I am pleased to provide the following information in response to your questions resulting from my testimony at the committee hearing on S. 2006. While the improvements we have made to date in our enforcement programs are a source of pride, I anticipate even greater improvements in the future. Findings and recommendations from program audits and reviews conducted by the Agency's Inspector General, and deficiencies identified through internal vulnerability assessments (conducted pursuant to our responsibilities under the Federal Managers Financial Integrity Act), will continue to command my personal attention.

Within the Office of Enforcement, the Assistant Administrator, Jim Strock, has established a formal process for overseeing responses to both Inspector General and General Accounting Office reviews of enforcement activities. This system will assure that timely and appropriate corrective actions are implemented for all findings and recommendations.

Before discussing specific actions which have been implemented to improve our enforcement program, I would like to briefly describe the new organizational structure which we have put into place. The changes were the product of much discussion and coordination within the Agency and, I believe, will result not only in improving our ability to assure achievement and maintenance of compliance with the nation's environmental laws, but also in achieving real tangible environmental benefits and results.

First, the name of the "Office of Enforcement and Compliance Monitoring" has been changed to the "Office of Enforcement." While this may seem to be a small step, I believe it signals a constructive break with the past and heralds a new beginning for our efforts.

Second, a new Office of Federal Facilities Enforcement has been created within the new Office of Enforcement. This consolidates the existing federal facilities enforcement office within the Office of Waste Programs Enforcement, comparable functions within other media programs and the federal facilities compliance unit within the Office of Federal Activities into a single integrated multi-media Office of Federal Facilities Enforcement reporting directly to the Assistant Administrator for Enforcement. This new office will develop and maintain a national priority-setting system for achieving federal facility cleanups and compliance with all other environmental laws, manage a federal facility compliance information system, develop and coordinate national policies for federal facility enforcement activities, handle disputes that arise with federal facilities over national policy, legislation and priorities and develop budgets to ensure that federal facility enforcement receives the priority it warrants across all programs.

Third, the new Office of Enforcement will assume primary responsibility for the selection and performance ratings of the Regional Counsels, in recognition of their primary role as managers of the Regions' legal support for enforcement. The General Counsel will, of course, have guaranteed roles in both processes. In recognition of the key roles of the Regional and Deputy Regional Administrators in managing a strong enforcement program, we have developed uniform enforcement-related performance standards to be incorporated in the regional performance agreements. Only by making all of our key players fully accountable and by ensuring that credit and resources support enforcement commitments, can we be certain that successful enforcement will become institutionalized.

The fourth element of the reorganization consists of separating and elevating the Resource Conservation and Recovery Act (RCRA) enforcement activities within the Office of Enforcement. This was accomplished by creating separate Associate Enforcement Counsels (AECs) for Superfund and RCRA as opposed to the previous single AEC for Waste Enforcement. I believe that in this way RCRA enforcement activities will receive the attention they warrant. In addition, Emergency Planning and Community Right to Know Act (EPCRA) enforcement activities have been consolidated under a single Associate Enforcement Counsel for Pesticides and Toxic Substances.

The General Accounting Office has also conducted a review of our criminal investigation program. The study was requested by Congressman Synar of the Committee on Government Operations and was only recently transmitted to the Agency. It is currently undergoing Agency review. That study followed a criminal program review conducted by the Agency's Management and Organization Division. To pull together the findings and recommendations of these various studies of our criminal enforcement activities, a special analysis of the program has been commissioned by the Assistant Administrator for Enforcement. I plan to use the results of that analysis to identify and assist in implementing further improvements to our criminal enforcement activities.

The following discussions address findings and recommendations resulting from several studies of our enforcement and compliance programs. They deal with specific programmatic activities and demonstrate the earnest efforts we have made to implement needed improvements in our day-to-day operations.

Consent Decrees/Compliance Agreements. The Federal government invests substantial amounts of time and effort in reaching agreements designed to bring violating facilities into compliance with environmental regulations. It is incumbent upon us to ensure that violators live up to the terms and conditions of their agreements. Anything less would not provide the American public with the full extent of environmental protection to which they are entitled.

With record numbers of judicial and administrative enforcement cases referred over the past few years, the job of monitoring and ensuring compliance with enforcement agreements has increased substantially. Four years ago the Agency was monitoring just over 200 judicial consent decrees and court orders; at last report this total was over 600. In FY 1989 alone, the Agency initiated over 4,000 administrative actions, all of which need to be monitored until compliance is achieved. As the Agency continues to settle already initiated cases and initiate large numbers of new judicial and administrative cases, we can expect the compliance monitoring workload to increase substantially. Over the past several years, we have put in place management systems and automated tracking systems designed to keep track of violators' progress in meeting the terms of their agreements. However, we were not comfortable that these systems are sufficient to meet the task at hand, or the one that lies ahead.

Consequently, during the past year, the Office of Enforcement conducted a study of regional consent decree tracking practices. Based on the findings of that study, the Office developed a directive that establishes baseline requirements for a sound consent decree tracking program. The directive establishes minimum requirements for systems to track the compliance status of consent decrees, establishes joint responsibilities among regional media program office managers and Office of Regional Counsel managers for review and concurrence on selection of response to consent decree noncompliance, and establishes requirements for case file documentation. The directive is currently being implemented by our regional offices, and we will be evaluating its effectiveness this summer.

Penalty Documentation. Given the importance of penalties to the enforcement process, the Office of Enforcement has carefully reviewed the findings and recommendations of EPA's Inspector General and has initiated a series of additional steps to assure that enforcement personnel understand and follow both their program-specific penalty policies and relevant general guidance.

EPA's civil penalty policy reflects the belief that appropriate penalties are a major element of deterrence. Since its creation, EPA has obtained over $186 million dollars in civil penalties in over 9500 civil judicial and administrative cases. Over 50 percent of those penalty dollars were obtained during the last three fiscal years (FY 1987-89) and the last two years have seen the highest annual level of penalty assessments in the Agency's history. While these aggregate totals reflect, to some extent, a relatively small number of very large penalties, it also results from a general increase in the size of penalties across the board. For example, from FY 1987-89, the median penalty for Clean Water Act judicial cases rose from $50,000 to $55,000 and the median penalty for RCRA judicial cases rose from $40,000 to $61,000. These are positive trends that I am committed to continuing.

Last December, the Assistant Administrator for Enforcement sent a memorandum to the Regional and Assistant Administrators reiterating the importance of following Agency penalty policies and emphasizing that all case files must contain penalty calculation sheets which permit the reconstruction of the penalty from initial to final assessments. The Office of Enforcement will continue to work with the programs to assure that Regional reviews verify adherence to penalty policies for both administrative and judicial cases. In addition, a mandatory training requirement is being established for those attorneys who lead enforcement settlement negotiations.

It is important to note that in virtually all enforcement actions the proposed penalty is higher than the final penalty and there are legitimate reasons why this happens. First, the Agency seeks to put as large a number as can be justified in a judicial or administrative complaint to provide our enforcement personnel with negotiating room. Second, our statutes require us to consider certain mitigating factors such as the good faith of the violator and the inability of the violator to pay a civil penalty. Such considerations can lessen penalties. Third, the violator may convince us that the violations were not as serious as we had initially determined. (e.g. the violation's severity or duration was actually less than originally thought). In such cases, we would reduce the penalty by an appropriate amount. Finally, litigation practicalities sometimes force us to accept a lower penalty than proposed. We might find, for example, that our evidence is weak or that there is a danger of setting a bad legal precedent if we were to lose the case. In those situations, we try to settle the case for as good a result as we can get for the environment, but that frequently requires accepting a lower penalty.

Penalty Mitigation. The Office of Enforcement is also currently revising the Agencywide Penalty Policy's section on penalty mitigation. These revisions will tighten the criteria for reducing the cash penalty, and ensure that only the most environmentally significant activities (e.g., pollution prevention) will be eligible for mitigation. In addition, the Office issued a Manual on Monitoring and Enforcing Administrative and Judicial Orders that provides general guidance to EPA enforcement staff on their roles and responsibilities in overseeing compliance with final order requirements. The manual outlines a process for working with both our Financial Management Division and the Department of Justice to monitor and collect penalties.

While States are not required to assess the same penalty as would EPA for a given violation, the States must assess penalties which are not "grossly deficient" as defined by the respective programs. States are also required to maintain sufficient documentation so that the Regions can determine whether the penalty was appropriately assessed. The FY 1991 State/EPA Enforcement Agreement Guidance will emphasize that the regional offices conduct additional oversight of State penalty cases and make sure that sufficient documentation exists for meaningful review. These actions address the recommendations of the Inspector General, and once fully implemented, will go far towards assuring that regional offices fully adhere to program and Agencywide penalty policies.

Targeting. To deal effectively with the more pressing environmental problems our enforcement strategy in the 1990's will expand traditional media-specific approaches to include targeting and cross-media enforcement efforts. Characteristics of the program include: 1) coordination of inspection and enforcement resources among several media programs; 2) addressing corporate compliance problems affecting more than one facility and environmental media; 3) focusing on specific pollutants, categories of pollutants, and geographic hot spots that incorporate risk assessment analyses; 4) providing concentrated effort to particular industries or groups of regulated entities that have a pattern of reoccurring noncompliance; and, 5) demonstrating the ability to integrate data from several automated enforcement and ambient monitoring data systems.

Annual Enforcement Accomplishments Report. In the past two years, the Office of Enforcement has greatly expanded the scope of the Agency's annual enforcement accomplishments report with the goal of creating deterrence through providing more public documentation of the Agency's enforcement actions and the resulting settlements with regulated entities. Two years ago the report was largely an internal document with fairly limited distribution. This past year we distributed over 5,000 copies of the FY 1989 report and we continue to receive many requests for copies from members of the regulated community, States and the legal profession.

Summary and Conclusion. Despite these gains -- both in establishing rules and assuring compliance with them -- there are challenges ahead. There are still places where the air is unhealthy and the water dirty. The failure of some facilities to maintain equipment properly will undo past environmental gains. While the regulatory agenda is expanding annually neither the regulatory nor the enforcement process can, in the near term, address every discharge which causes a risk.

The Agency's enforcement program will have to become "smarter" and more sophisticated in the years ahead if it is to assure the integrity of the regulatory structure and solve the most pressing environmental problems through direct action to achieve compliance. Being "smarter" will mean: a) targeting or focusing compliance monitoring and enforcement resources to achieve environmental results in a manner both consistent with national priorities and sensitive to Regional and State needs; b) screening for enforcement response and realizing the full potential of enforcement authorities in addressing environmental problems; and, c) gaining the maximum leverage from each individual enforcement action, both in terms of general and specific deterrence and incentives for the regulated community to prevent pollution and minimize waste.

The time is ripe to use the Agency's increasingly sophisticated data systems (media compliance tracking systems, TRI, GIS, etc.) to institutionalize a focused approach to targeting, special initiatives and case screening in conjunction with the base program. The technical ability and opportunity exists to move to the next logical phase of enforcement; a phase in which enforcement is more fully integrated into the goals and mission of the Agency as a primary tool in achieving the Agency's environmental goals and objectives. The enforcement program will emphasize environmental impact and results in setting monitoring and case selection priorities.

Enforcement will also play a major role in addressing problems that could be, but are not currently being addressed through the regulatory process. For example, enforcement staff will promote the Agency's pollution prevention goals, and cooperatively work with industry on environmental problems caused by chemicals for which regulations are not yet in place.

This enhanced enforcement program must be a joint Federal and State effort, in recognition of the fact that the majority of activities are conducted by States. Implementation can only succeed if the Regions, States, and localities all accept the approach and build the necessary enforcement, compliance monitoring and compliance promotion capacity. One of the major tasks of the national enforcement program will be to provide the training, expertise and direction to develop that capacity.

The Agency will implement this enhanced enforcement program for the 1990's through a strategic enforcement plan, which should be completed by the end of this month. The strategic enforcement plan will be a comprehensive and functional guide for media-specific and cross-media enforcement in the future. It will lay out a direction for enforcement for FY 1992-95 and identify strategic choices for the Agency's planning and budget development efforts.

The strategy will comprise the Agency's plans for making progress towards several enforcement goals during the next four years. The enforcement program will be flexible and decentralized, heavily relying on the Regions and States for effective implementation. Together with the "Enforcement for the 1990's Project," which is analyzing key issues relating to the rulemaking process, Federal/State relationships and the measurement of enforcement "success," the four-year plan will present a "blueprint" for FY 1992-95.

The plan will identify key elements of the enforcement program, including cross-media tools and approaches and specific initiatives to be implemented between now and FY 1995. Some of the specific activities and procedures of the plan are being introduced on a pilot basis by Regions during FY 1990 and the plan will identify activities where wider implementation can begin in FY 1991 and beyond.

The strategy also will establish an ongoing planning process that will be conducted annually so that national priorities and initiatives can be updated and adapted to the specific needs of Regions and States. It will anticipate more attention to initial definition of environmental benefits to be sought and stronger communications of results achieved.

Successful implementation of the strategy will require a new "mindset" on the part of all key players, i.e., more coordination among Headquarters programs and new ways of conducting business in the Regions, since the emphasis on targeting and screening for violations and enforcement response cross individual media lines. It will also require better coordination with the States together with the joint development of more sophisticated mechanisms for Regional and State oversight.

I strongly believe that these measures will lead to an improved and strengthened enforcement program. I hope this discussion has been responsive to your request. Please contact me should you, or the Committee, have any additional questions or if you desire additional information.

SUPERFUND.

Question: The Superfund program has been the subject of numerous studies, investigations, and hearings by the IG, OMB, GAO, and Congress. These initiatives have identified major vulnerabilities in the direction, operation and management of the program and have made a number of significant recommendations. Do you agree with these recommendations and how do you intend to implement them?

Answer: Superfund is perhaps one of the most closely scrutinized and studied programs in EPA. The turmoil of the early 1980's precipitated a large number of investigations and reports over the management and implementation of the Superfund program. Clearly, the Agency lost a tremendous amount of public trust and credibility.

Over the last few years, the critical reports have been fewer; however, a number of reports have been issued in the recent past that lack substantiation for their conclusions and appear to feed off of one another. For example, a February 1990 report by the Hazardous Waste Treatment Council and five environmental groups was highly critical of remedial decisions signed in fiscal year 1988. In Region VI alone, 38 of the 39 critical allegations were found to be not factually accurate or otherwise incorrect.

As you may know, one of my earliest assignments as Administrator of EPA was to commission a study of the Superfund program -- known as the 90-Day Management Review of the Superfund Program. This review included extensive discussions with virtually all of the external groups that play a role in Superfund (Congressional staff, GAO, IG, environmental and trade groups, citizen groups, etc.). It provided this Agency with an opportunity to step back and take a hard look at those points of vulnerability that were being criticized.

Following this comprehensive undertaking, an extensive implementation plan was issued detailing hundreds of management and operation improvements to be completed. Many of these tasks respond to the criticisms from numerous investigations and hearings you reference. We are pleased to report that several tasks have already been completed or are well underway. For example, in an effort to address Superfund's worst sites, worst problems first, EPA has taken removal actions at all National Priorities List sites where assessments indicate need. A total of 221 assessments already have been completed. A model unilateral administrative order for remedial designs and remedial actions as well as a directive for use of CERCLA Section 106 orders was issued. We have also addressed potential conflict of interest concerns with several activities, including review of contractor conflict of interest plans required in RFPs.

Thus, we are continuing to make improvements to the Superfund program and we have set in place a series of management initiatives that will assist us in carrying out the important mission of this evolving and complex program.

FINANCIAL SYSTEMS.

Question: The OMB high risk list reflects that EPA's financial systems are "inaccurate and unreliable", and that weaknesses in these areas have led to inaccurate balances in 40 percent of the agency's accounts receivable. What is being done to correct these fundamental management problems? How would they fare if we elevate the Department?

Answer: The OMB statement referred to audit work performed over two years ago. Since then, EPA has made significant improvements in managing accounts receivable. Further, the statement that balances were inaccurate in 40 percent of the Agency's accounts receivable requires some clarification. The Office of the

Comptroller reported in their response to the Office of Inspector General's (OIG) audit, that the differences in dollar value between actual and recorded amounts were in the .5% to 4.5% range.

The Agency's achievements in improving accounts receivable management have been documented by the OIG. A Superfund Trust Fund audit report issued September 22, 1989, stated that the Agency was responsive to past recommendations and that the OIG had no further recommendations in the accounts receivable area.

The Agency has strengthened its internal controls with regard to accounts receivable. Whether or not the Agency is elevated to Department status, I will continue to be aggressive in seeing that the financial management systems are reliable and that they result in reporting documents that accurately reflect its financial condition.

FEDERAL FACILITY ENVIRONMENTAL PROBLEMS.

Question: Hearings before this and other committees have established extensive violation of environmental laws by Federal agencies. The "A-106" process set up by OMB to monitor environmental expenditures is inaccurate and inefficient. The Congressional Budget Office and OMB have found that we may be facing up to HUNDREDS OF BILLIONS OF DOLLARS in unfunded and unknown liabilities. As a Cabinet Secretary, we expect you to be better able to assert a leadership role in this area. Could you comment?

Answer: It is clear that Federal facilities have environmental problems. Federal facilities have an obligation to comply fully with environmental laws and regulations in the same manner and degree as all other regulated entities. In fact, I believe that Federal facilities should set an example for the private sector. It is the goal of EPA to have Federal facilities achieve compliance rates equal to or better than the compliance rates of private industry. To achieve this goal EPA, in conjunction with the states, is aggressively seeking compliance by establishing enforceable agreements at facilities which are out of compliance or which have significant environmental releases. The government cannot expect American industry and the public to cooperate in the complex and costly process of controlling pollution unless the government accepts these obligations.

From my perspective, I am gratified to see the kind of management focus and commitment that the Secretaries of Energy and Defense have placed on environmental issues. Having the EPA at the Cabinet table can only help Federal agencies factor environmental considerations into their decision-making and budget development. We have seen the results of this attention already in the President's FY91 budget request, which contains significant increases for cleanup activities at Federal facilities. Moreover, over 50 of the 115 Federal facilities on the Superfund National Priorities List for cleanup have entered into enforceable cleanup agreements with EPA. We are conducting negotiations at an additional 50 Federal facilities.

With respect to the "A-106" process, I agree that it could be improved. Conceptually, the A-106 process was designed to identify environmental problems and the resources needed to fix those problems. In practical terms, the A-106 process has not worked as well as it could. One of EPA's priorities, therefore, is to improve the A-106 process so that it becomes an accurate and efficient tool for managing and addressing the environmental problems at Federal facilities. EPA's Office of Enforcement has recently reorganized, which included the creation of a new Office of Federal Facilities Enforcement. One of this office's priorities will be to improve the A-106 process.

BUDGET AND ACCESS.

Question: One of the most important benefits of an elevation is the ability of the new Secretary to command more respect in the area of the budget. I note that the President's request for EPA in FY 1991 is 12 percent higher than last year. However, between 1981 and now, there has been about a 12 percent decrease in real dollars. This doesn't even take into account new authorities like RCRA and Superfund which EPA has acquired in the past ten years. Thus, effectively, we have seen an erosion of EPA budgets compared with the pre-Reagan time frame. Will a Secretary of the Environment be better able to garner funding for programs in his/her Department? Do you feel you currently have the organizational clout to be persuasive with OMB when the various federal agencies make their pitch for funding at budget time?

Answer: It has been a difficult time for all agencies under constraints of deficit reduction. Nonetheless, President Bush's FY 1991 Budget demonstrates his strong commitment to the environment. In the recently completed FY 1991 budget process, the President's request includes funding for EPA's operating programs at almost $2.2 billion, an increase of 12% over 1990.

If EPA is elevated to Cabinet status, we believe the President and the Congress would continue a strong commitment to environmental protection and that the commitment will continue to be reflected in the Department's budget.

Question: Will EPA's staff requirements and ability to recruit skilled, capable staff change as a result of the provisions of the bill? What changes do you see in your workforce of the future?

Answer: As a Department, the increased significance and uniqueness of our mission will be more visible and important to the public and to students and will enhance our ability to attract new employees. Increased demands for recruiting in the scientific and engineering areas will require EPA to utilize innovative recruitment strategies. We believe the inherent commitment to environmental problems shown by elevation of EPA to Cabinet status will be viewed positively by prospective employees.

Question: What about the costs associated with elevation itself. Although we don't have a definite cost estimate, past experience seems to show that there is some administrative cost increase (true of Energy and Education) with elevation. Do you expect that other agencies will incur greater costs as a result of the requirements under this bill?

Answer: I expect that the costs associated with elevation under Title II of S. 2006 would be negligible. Some minor adjustments to personnel and pay levels are anticipated by the legislation. As a proponent of pollution prevention, I would plan to minimize costs by depleting existing stocks of EPA stationery and outside publications, making pen-and-ink changes to Agency documents and directives, and staggering new signs for our facilities over a several year period. S. 2006 also contains provisions which are unrelated to elevation itself, such as the Bureau of Environmental Statistics and the Commission on Improving Environmental Protection. Both provisions authorize separate funding to make them operative.

It is difficult at this time to determine if other agencies will incur costs as a result of the requirements of S. 2006. I would expect any additional costs incurred by other agencies to be relatively insignificant.

Responses to Senator Pryor's Questions

1. Question: Please state the number of Federal employees currently employed by EPA and the annual budget for these employees. Please state the number of contractor employees currently employed by EPA and the annual budget for contractors.

Answer: Currently EPA employs 15,763 Federal workers (15,924 workyears) and $758,777,000 has been allocated to personnel compensation and benefits. Since most of EPA's contracts are level of effort type contracts, where the Agency buys hours, not people, it is impossible for us to identify how many contractor employees currently support EPA. A recent preliminary analysis, performed in response to questions posed by the House Appropriations Subcommittee on Veteran Affairs, HUD, and Independent Agencies, estimates that EPA will be using the equivalent of 7,700 workyears in contractor support during FY 1990, costing approximately $1.1 billion (including contractors' overhead, general and administrative expenses, travel and other direct costs, and profit). The Agency has undertaken a longer-term, more detailed analysis to refine that estimate for the Subcommittee and will provide you with a copy when it is completed. Additionally, we estimate that in FY 1990, EPA will obligate $1.2 billion on all of its contracts.

2. Question: Attached find a December 29, 1989 decision by the GAO, which confirms that contractors should not be employed to perform inherently governmental functions. Does EPA agree that the statement of this principle contained in OMB Circular A-76 and in the GAO decision governs EPA's activities? If EPA does not agree, please state the principle that should be applied to EPA's activities.

Answer: EPA agrees that contractors should not be used to perform inherently governmental functions and fully supports the principles set forth in the referenced OMB circular and the GAO decision. It is often difficult to identify the full range of activities that should not involve contractor support.

Therefore, we have recently taken action to identify a list of activities for which EPA will not contract (principally because they involve inherently governmental functions) and a second list of potentially sensitive areas that require stringent contract oversight. These lists are contained in the Administrator's policy statement on contracting, which was issued on April 17, 1990 to all agency employees (Enclosure 1). This is to be followed by the issuance of an EPA Order which will emphasize in greater detail the substance of the Administrator's statement.

Since the statement was issued, EPA's procurement staff has conducted numerous training sessions for technical and management staff to explain the intent of the policy statement and to ensure its compliance. Additionally, we will be implementing specific contract provisions designed to further ensure that inherently governmental functions are not performed under contracts.

3. Question: Please identify all contractors (including subcontractors) employed since January 1, 1989 in the following activities; a) rulemaking, including drafting options papers, background documents, summaries of public comments, briefing papers, etc.; b) enforcement, including investigations, maintenance of data bases, preparation of case materials, etc.; c) Congressional activities, including attending hearings, analyzing legislative issues, drafting testimony, responses to inquiries, required reports; d) communications with the public, including preparing fact sheets, press materials, newsletters, staffing hotlines, RCRA/Superfund community relations, etc.

Answer: EPA does not track contractor-provided services to this level of detail. In order for us to gather such information, the Agency would need to manually review thousands of work assignments and other task directives issued since January 1, 1989. An undertaking of this magnitude would seriously disrupt day-to-day Agency activities. I recommend that our offices meet to develop a strategy that will address your concerns, yet not be overly burdensome for EPA.

4. Question: With reference to the contract document attached as 1, which shows that a contractor is tasked to prepare decisional documents on EPA letterhead, please a) state whether this contract task is consistent with EPA rules; b) provide any EPA policy/rule regarding the availability of EPA letterhead to EPA contractors.

Answer: This task called for the contractor to review and assess the validity of waste disposal certifications and to prepare recommended responses on EPA letterhead. At the time this assignment was issued, there was no restriction on the use of EPA letterhead. However, the Administrator's policy statement on contracting now prohibits contractors from preparing such documents on EPA letterhead. The contractor is no longer performing this work. There is no other policy or rule concerning the use of letterhead by contractors.

5. Question: With reference to EPA's most current regulatory agenda (we understand this to be published in the October 30, 1989 Federal Register), please a) identify all contractors (including subcontractors) who have been assigned work on each item; b) state which of these do not offer services to entities that are potentially affected by the regulatory activity on which they work for EPA.

Answer: The regulatory agenda published in the April 23, 1990 Federal Register contains 242 items for EPA. The requested information is not readily available. To provide the information would mean notifying the Agency contact for each item, and collecting the information manually. I recommend a follow-up meeting between your staff and our Procurement and Contracts Management Division in order for us to better understand your precise information requirements and how we might meet those needs in the most efficient manner.

6. Question: Please provide the best available information on the amount of Federal staff and staff time spent on contract management activities.

Answer: EPA does not maintain comprehensive data on the level of effort devoted to contracts management by all Agency staff who are involved with contracts. The Agency's contract specialists and other related procurement support staff number 365. These employees are devoted full-time to procurement and contracts management activities.

In addition, the Agency assigns certain contract management functions to project officers, work assignment managers and other technical staff, who work with the Agency's contractors. A 1988 internal review of contract management at EPA indicated that there were approximately 4000 active contract managers in the Agency at that time. This equated to 32% of the professional and administrative staff, but did not include employees indirectly involved with contract management -- Agency managers and supervisors, financial management personnel, senior policy makers, etc. If we were to add in all these individuals, at least one-half of the Agency's professional and administrative employees are involved in contract management.

The 1988 review found that the average contracts management staffer spends between 10% and 25% of his time on this function. Based on a universe of 4000 contract staffers, this translates to some 400 - 1000 workyears spent on contract management in addition to a full-time professional contracts staff of 365.

7. Question: Does EPA maintain information on the type and number of environmental workers needed by EPA and the country's environmental protection activities? For example, does EPA know the number of hydrogeologists, toxicologists, etc. a) currently employed by EPA; b) employed under contract to EPA; c) employed by others than EPA? Does EPA have projections of the needed hydrogeology, toxicology, etc. workforce for, e.g. 1995 and 2000?

Answer: (a) EPA can provide by professional job category the number of individuals it currently employs. (b) Due to the level of effort nature of many of our contracts, it would be very difficult to estimate the total number of contractor employees by professional categories. For example, purchasing a toxicologist for eight hours under a contract could consist of one individual working eight hours, two individuals working four hours each, or numerous other permutations. (c) EPA does not maintain or collect data on the number of workers employed in environmental protection activities by other entities.

In response to the second question, EPA does not currently have a centralized Agency-wide forecasting system, however, we recognize the value of long-term workforce forecasting and proposals have been made to incorporate this capability into the Agency's strategic plans. Historically, it has been difficult to project with any accuracy long-term human resource needs due to changing program policy, uncertain budget authority and unpredictable escalation of world-wide environmental problems.

8. Question: As shown in Attachment 2, EPA officials have recognized that Superfund "policy" contractors are currently performing "the sort of activities that are inherently judgmental in nature and require complete impartiality. Ideally, these should be performed by Government employees..." To the extent that EPA continues to employ contractors (in Superfund or elsewhere) in such activities, does EPA agree that a) EPA has an obligation to affirmatively disclose the role of contractors? b) the public has a right to information on the services the contractors offer to regulated entities? To the extent the answer to either question is "yes," please identify all actions which are being taken to provide disclosure.

Answer: There are certainly recognized areas of vulnerability in our policy support contracts, but as discussed in our response to Question 2, we are committed to ensuring that contractors do not perform any inherently governmental functions. Our existing policy support contracts are closely monitored to ensure work assignments for such activities are not issued and that there are adequate safeguards in place to protect the Agency from contractor bias and influence.

We agree that, to the most practical extent, EPA should affirmatively disclose the roles of its contractors. EPA does provide notice to the public of all its solicitations and contract awards through publication in the Commerce Business Daily. Additionally, the Agency regularly makes available a large volume of contract information to the public under the Freedom of Information Act, subject to various restrictions placed on the release of confidential business information. The information provided includes Statements of Work, Work Assignments, and reports prepared by contractors.

Although the public generally has a right to information about EPA contracts, information on the services contractors offer regulated entities involves the private business activities of our contractors and cannot be disclosed when it contains confidential business information restricted under the Freedom of Information Act. Such information can only be released if the contractor has not claimed it to be confidential, or if it is readily available from other sources.

9. Question: Where EPA employs a contractor at a waste site, does EPA agree that the public has a right to know whether the contractor also serves (at the site or any other location) any of the potentially responsible parties? Similarly, where EPA employs a contractor to review or prepare decisions on permits, enforcement actions, etc., does EPA agree that the regulated entity has a right to know both of the role of the contractor and its relevant further interests--e.g., whether it works for a competitor, or has an interest in a technology or process? To the extent the answer to any question is "yes," please identify all actions and procedures, rules, etc., which provide for disclosure.

Answer: We agree that the public has a right to know whether an EPA contractor has a conflict resulting from working for a potentially responsible party. Our internal conflict of interest procedures are designed to disclose any such conflicts and to ensure that contractors working for us are conflict-free. However, we cannot disclose information concerning the private business activities of our contractors to the public when the information is confidential and restricted under the Freedom of Information Act. Such information can only be released if the contractor has not claimed it to be confidential, or if it is readily available from other public sources.

The role of contractors employed by EPA to review permits or assist in the implementation of Agency regulations is public information. However, the disclosure to regulated entities of contractors' relevant further interests would involve the release of contractors' private business activities and is subject to restrictions under the Freedom of Information Act. Contractors who perform this type of work for the Agency are subject to our conflict of interest regulations and are carefully scrutinized to ensure that they do not have conflicts that would impair their objectivity in performing EPA work or give them access to a competitor's technology or process. EPA contractors are also required to sign agreements not to disclose confidential business information.

10. Question: As shown by Attachment 3, EPA has stated that the loss of the services of a single contractor would "bring to a halt EPA's ability to report RCRA enforcement accomplishments..." EPA states that the contractor is responsible for the "development, maintenance, and analysis" of the Strategic Planning and Management System (SPMS). Please provide a list of EPA's planning and/or management systems which shows the role (and identity) of contractors in system development, maintenance, and/or analysis.

Answer: The compilation of a list such as you have requested would take a significant amount of time and effort, involving a manual search of all work issuance documents under all existing contracts. What may be more relevant is the nature of the specific activities the contractors are performing for the Agency, i.e. are they inherently governmental, are they personal services, do contractors have undue influence, etc. I believe that Agency personnel are sufficiently trained in contracts management and that there are adequate controls in place to prevent the occurrence of inappropriate activities. Additionally, the Administrator's recent policy statement on the role of contractors at EPA further delineates the support role of Agency contractors.

As we stated on May 11, 1990 in response to a similar question from Senator Pryor, the memorandum referenced in your question was written to provide a rationale for the extension of an existing contract until a new competitively awarded one could be let to take its place. The intent of the memorandum was to describe the impact on RCRA enforcement activities that a lapse in contractor support might cause. The importance of continued contractor support to EPA's RCRA enforcement program was the central focus of the memorandum.

11. Question: With reference to Attachment 4, which shows that EPA held a "corrective action retreat" at the offices of a contractor, please provide EPA's policy on the use of contractor facilities for EPA meetings. In addition, please state what, if any, services the contractor (including its affiliates) provides to regulated entities that are subject to the "corrective action" the retreat addressed.

Answer: The Agency does not have a written policy on the use of contractor facilities for EPA meetings. The general practice is to conduct meetings in EPA conference room facilities. The Agency may elect to conduct a meeting off-site if facilities are not available, or to avoid interruptions for attendees.

The contractor, ICF Inc., provided the facilities under Contract 68-01-7454 for Policy and Implementation Support for the RCRA Hazardous Waste Program. We do not know of every one of ICF's clients or of its affiliates; however, internal Agency procedures require the contractor to disclose work of a conflict of interest nature prior to accepting an assignment. If the Agency had such knowledge, it would have taken steps to avoid or mitigate the situation.

12. Question: Attachment 5 are examples of monthly reports from the Office of Solid Waste to the Assistant Administrator which were given to us by EPA in request for contractor work product. Please identify all contractors employed by EPA in the preparation of such internal reports, and the reports they work on. Also, please provide any EPA rule or policy regarding the use of private contractors to prepare such internal reports.

Answer: EPA does not maintain a centralized file containing information on contractors who support the preparation of internal reports. Our position on the appropriate use of contractors, as it pertains to the preparation of internal reports or otherwise, depends on the nature of the work. If it is highly judgmental, involves policy determinations or other critical decision-making activities, we do not use contractors. If, on the other hand, the work is of a routine or non-judgmental nature such as gathering background information, performing literature searches, compiling data or statistics, etc., contractor support may be used.

The preparation of the referenced reports falls into this second category of activities. In this case, EPA used the contractor as a repository of and dissemination point for information on key activities in the RCRA permit program. The contractor was required, on a bi-monthly basis, to review EPA correspondence on site-specific permit activities and issues and to develop synopses of the key items. The resultant synopses were then incorporated into a report which was reviewed by Agency staff and then issued to the Director of the Office of Solid Waste and other interested parties within the Agency. Thus, the report essentially served as a newsletter for Agency staff involved in the RCRA permits program.

The review of documents related to an EPA program and development of synopses of these documents are not considered to be inherently governmental functions. These activities do not require the use of discretionary decision-making by the contractor and are not, in my opinion, the sort of activities contemplated by the OMB circular in its definition of inherently government functions.

13. Question: Attachment 6 is entitled "Alternate Closure Briefing Prepared by Land Disposal Branch". This document was provided to us in response to a request for contractor work product. Is it EPA policy to permit EPA officials to state that work was "prepared by" officials without disclosure of the role of contractors in the preparation? If "no," please provide EPA policy.

Answer: EPA does not have a policy requiring the publication of contractor involvement in a given activity. However, we readily acknowledge such involvement when asked for background information on the development of Agency work products. Preparation of the alternative closure briefing which you have attached to your letter was directed by EPA with contractor support. Although the contractor played a role in the development of this document, the draft briefing package underwent a series of reviews by Agency staff; its contents reflect the thoughts and opinions of Agency staff, not contractor staff. Therefore, we can attribute the preparation of the document to Agency staff, while still acknowledging the support provided by the contractor in its development.

14. Question: In Sierra Club v Sigler, 695 F 2d 957 (5th Cir. 1983), at n. 3, the U.S. Court of Appeals for the Fifth Circuit stated that:

"We realize that the preparation of an FEIS is a mammoth task and that CEQ and Corps regulations permit the participation of private consultants...of course, administrative agencies have discretion in the performance of their duties...Nonetheless, an agency may not delegate its public duties to private entities...particularly private entities whose objectivity may be questioned on grounds of conflict of interest."

Has EPA undertaken to examine the possibility that current reliance on contractors in the performance of EPA regulatory and enforcement functions may subject rules or decisions to court challenge, as indicated above? If "yes," please provide any such analysis.

Answer: The Agency is concerned about any activity that would compromise the validity of its regulatory or enforcement functions. The Agency has not performed the specific analysis requested in the question. However, the Agency remains sensitive to the problems conflict of interest may generate, as evidenced by the publication of its proposed rule on conflicts of interest in the April 26, 1990 edition of the Federal Register.

15. Question: Does EPA agree that where a contractor employee is involved in the drafting of a rule, the preparation of a decision, or the development of response to public inquiry (e.g., Hotline operation, Fact Sheet preparation), the public has a right to know the name of the contractor employee? If "yes," please state whether this information will be provided in response to Freedom of Information Act requests.

Answer: The EPA agrees in principle that the public should have access to the identity of individuals involved in drafting Agency regulations. Accordingly, that information would be released pursuant to a Freedom of Information Act request, provided the release did not violate other applicable non-disclosure laws. The Agency would, of course, determine on a case-by-case basis any allegation that the identification of key personnel would harm an Agency contractor's competitive position. If it is determined that the release of such information would violate the Trade Secrets Act, the information would not be released without the consent of the affected contractor.

16. Question: In awarding contracts to support activities such as rulemaking, enforcement, preparation of Congressional reports, etc., does EPA routinely examine the relative costs of contractor vs. official personpower? If "yes," please provide examples of such analyses. If "no," has EPA management otherwise considered the relative costs of relying on contractors vs. officials for such work? If "yes," please provide any such analyses.

Answer: Formal analyses such as the types you have suggested are not normally performed when deciding whether to use contractor support. Rather, these decisions are reached based on other practical matters such as the availability of appropriated funds, the current mix of EPA employee expertise, and the various other responsibilities and priorities of the office needing the support.

The fact that most of these support contracts are "level of effort" types is also a key determining factor. An office, through using such a contract, can gain access to a wider variety of expertise on an "as needed" basis, as opposed to hiring individuals skilled in only one area. For example, under a level of effort contract, 2080 (one person-year) hours of effort can be provided through a combination of individuals and their multiple areas of expertise. On the other hand, EPA can generally hire only one individual to provide 2080 hours per year and is limited to benefiting from only that one individual's area of expertise.

17. Question: Does EPA employ contractors to assist in the preparation for international meetings or negotiations? If "yes," please identify all contractors employed for such work since January 1, 1989. Does EPA ever employ contractors to

attend or assist at international meetings? If "yes," please identify all contractors and the meetings/negotiations attended, for the period since January 1, 1989.

Answer: The Agency does not keep easily retrievable records that supply the type of information you request. Obtaining this information would entail a large effort comprising a manual review of each work assignment or task order document issued since the beginning of 1989. It is safe to say, however, that contractors have occasionally been used in each of the areas you have mentioned and I am confident that they have been used to perform appropriate support activities. In those situations where contractors attend conferences for EPA, the firms are not authorized to represent themselves as EPA nor to express opinions on the Agency's behalf. Additionally, this particular issue was highlighted as an area requiring special management controls in the Administrator's recent policy statement on contracting.

18. Question: Attachment 7 is an excerpt from a public brochure produced by Booz-Allen & Hamilton. Please state whether the firm's description of "what Booz-Allen did" and "results" is correct, and please provide a copy of the contract and work assignment(s) under which the work was performed.

Answer: The Booz Allen & Hamilton (BAH) brochure addresses three projects for EPA. The first is entitled "Community Relations" and the description in the brochure is accurate. The work was performed under Work Assignment No. 540 of Contract No. 68-01-7331.

The second is entitled "Financial and Economic Analysis". The description in the brochure is correct. The work was performed under Work Assignment Nos. 659 and 746 of Contract No. 68-01-7331. The EPA Office of Waste Program Enforcement for whom the work was performed no longer uses contractors to perform those types of services.

The third is entitled "Environmental Auditing". The work was performed under Work Assignment Nos. 5, 17, and 31 of Contract No. 68-01-0097. The brochure description is generally correct. However, the protocol for this work was established under another contract by a different contractor but BAH expanded and supplemented the previous work. Booz Allen & Hamilton also developed an auditing schedule and procedures and performed field inspections at more than 50 locations.

As requested, the following enclosures are provided:

Enclosure 2 - Contract No. 68-01-7331
Enclosure 3 - Work Assignment No. 540, 68-01-7331
Enclosure 4 - Work Assignment No. 659, 68-01-7331
Enclosure 5 - Work Assignment No. 746, 68-01-7331
Enclosure 6 - Contract No. 68-01-0097
Enclosure 7 - Work Assignment No. 5, 68-01-0097
Enclosure 8 - Work Assignment No. 17, 68-01-0097
Enclosure 9 - Work Assignment No. 31, 68-01-0097

Enclosure 1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 17 1990

MEMORANDUM

THE ADMINISTRATOR

SUBJECT: Contracting at EPA

TO: All Agency Personnel

Since coming to EPA, I have been continually impressed with the broad range of work that we perform. It follows that the expertise required to successfully perform such an assortment of functions must be equally varied. EPA is fortunate to employ a multi-talented workforce. However, we are still not able to do all of this work ourselves. We must get help from the outside, specifically by way of contractor support.

Contract Management and Accountability

Due to the extent of EPA's contracting, it is critical for us to effectively manage our contracts. In recent years, we have improved considerably by focussing on those individuals who perform the day-to-day contract management activities. However, in a very real sense, we are all contract managers. Each one of us, including myself and senior management, bears responsibility.

Agency accountability begins when we make a decision to use contractor support. And, once we accept a final product from a contractor, we become responsible for its content and for how it may be used in reaching Agency decisions. To assure accountability at senior management levels, I am requiring all EPA managers to include in their performance standards a requirement emphasizing contracting controls. The Procurement and Contracts Management Division (PCMD) has the lead in developing this language.

Prohibited Contracting

With increasing frequency, I am becoming aware of uses of contractor support that leave us open to criticism. In many cases, we have used contractors in areas of a policy and decision-making nature that should remain under the sole authority of EPA. Although I am certain that key decisions are being made internally by EPA managers, there is often the appearance that contractors make those decisions for us. This perception is highly damaging to EPA's credibility. And, it must be stopped.

As a result, I am instituting measures to maintain tighter control on the Agency's use of contracting support. Attachment A to this memorandum comprises a list of activities for which EPA will not contract. The prohibition of these activities will be

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incorporated into all future contracts and current contractors will be alerted to this new policy. These prohibitions also extend to Agency subcontractors.

Sensitive Areas

Attachment B is a list of activities that often place the Agency in positions of vulnerability. They are not activities from which contractor involvement is precluded but are ones wherein we must exercise great control if we choose to contract for them. Over the next months, PCMD will be issuing direction regarding contracting for these types of activities. As a minimum, prior to procuring support in any of these areas, adequate control measures must be established to ensure a final Agency product that is unbiased and represents Agency thinking.

Broadening Competition

A high percentage of the tasks falling into the "sensitive" range are purchased by program offices under broad management consultant contracts. Having a limited number of contractors supporting us in so many of these areas creates great potential for conflict of interest. I ask senior management to help alleviate this situation by breaking requirements into smaller portions. Instead of just one contract, a program might be supported by two or three. This would reduce the conflict of interest potential and provide for more involvement of small and minority-owned businesses.

Conclusion

Within the near future, I will be issuing an EPA Executive Order which will implement in greater detail the policies discussed in this memorandum. The use of contractor support at EPA is a very practical way to meet our obligations. However, each of us is responsible for this Agency's reputation and for the ideas and opinions we express on behalf of it. Whenever a contract is used, we must ensure that we provide clear guidance to contractors on our thoughts, ideas, and positions and that we scrutinize contractor outputs to ensure they reflect this guidance. I am confident that each one of us will take ownership of this large responsibility and work to create an environment which is conducive to the accomplishment of our many tasks through the judicious use of contractual support.

William K. Reilly

William K. Reilly

Attachments

Attachment A

PROHIBITED CONTRACTING ACTIVITIES AT EPA

1. The actual preparation of Congressional testimony

2. The interviewing or hiring of individuals for employment at EPA

3. Developing and/or writing of Position Descriptions and Performance Standards

4. The actual determination of Agency policy

5. Participating as a voting member on a Performance Evaluation Board; participating in and/or attending Award Fee meetings

6. Preparing Award Fee letters, even under typing services contracts

7. The actual preparation of Award Fee Plans

8. The preparation of documents on EPA letterhead other than routine administrative correspondence

9. Reviewing vouchers and invoices for the purposes of determining whether cost, hours, and work performed are reasonable

10. The development of Statements of Work, Work Assignments, Technical Direction Documents, Delivery Orders, or any other work issuance document under a contract that the contractor is performing or may perform

11. On behalf of EPA, actually preparing responses to audit reports from the Inspector General, General Accounting Office, or other auditing entities

12. On behalf of EPA, actually preparing responses to Congressional correspondence

13. The actual preparation of responses to Freedom of Information Act requests, other than routine, non-judgmental correspondence -- in all cases, EPA must sign it

14. Any contract which authorizes a contractor to represent itself as EPA to outside parties

15. Conducting administrative hearings

16. Reviewing findings concerning the eligibility of EPA employees for security clearances

17. The actual preparation of an office's official budget request

Attachment B

ACTIVITIES OF POTENTIAL VULNERABILITY

The following activities very often require contractor involvement in programs that are dependent upon contractor support to accomplish their mission. These activities may result in the improper use of contractors if internal controls to ensure proper oversight have not been established. They may also lead to the perception that inherent Government functions have been assigned to contractors. Whenever contractors are used to perform these tasks, Agency employees must play an active role in overseeing the effort and making all final decisions. This requires close monitoring to ensure that final outputs reflect the Agency's positions, thoughts, and ideas.

1. Budget preparation support including workload modeling, fact-finding, efficiency studies, should-cost analyses, etc.
2. Reorganization and planning support
3. Support services such as analyses, feasibility studies, etc. to be used by EPA personnel in developing policy
4. Regulation development support
5. Any support in the in-house evaluation of another contractor's performance
6. Involvement in strategic acquisition planning
7. Support on improving contract management
8. Providing specialized expertise in the contractor selection process
9. Situations where contractors share office space with EPA employees
10. Providing specialized expertise in the development of Statements of Work, Work Assignments, other contract-ordered tasks
11. Support in preparing responses to Freedom of Information Act requests
12. Any situation wherein a contractor has access to Confidential Business Information and/or any other sensitive information

13. Any support involving EPA policy or regulatory interpretation, such as staffing hotlines, attending conferences on behalf of EPA, community relations efforts, conducting EPA training courses

14. Any situation where it can be assumed that the contractor is EPA, without specifically identifying itself as a contractor

15. Independently interpreting EPA policies or regulations on EPA's behalf to outside parties

69-01-7331

Enclosure 2

AWARD/CONTRACT

1. CERTIFIED FOR NATIONAL DEFENSE UNDER BDSA REG. 2. AND/OR DMS REG. 1
1. RATING

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2. CONTRACT NO.
68-01-7331

3. EFFECTIVE DATE
June 30, 1986

4. REQUISITION/PROJECT NO.
WA86-J001

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5. ISSUED BY Code:

Environmental Protection Agency
Procurement Branch A
499 South Capitol Street, SW
Washington, DC 20003

6. ADMINISTERED BY Code:
(If other than Item 5)

---

7. NAME AND ADDRESS OF CONTRACTOR
Camp Dresser & McKee, Inc.
7611 Little River Turnpike
Suite 104
Annandale, VA 22003

Code:
Facility:

8. DELIVERY
[ ] FOB ORIGIN
[X] OTHER (See below)

9. DISCOUNT FOR PROMPT PAYMENT
n/a

---

10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN ITEM: 12

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11. SHIP TO/MARK FOR Code:

If applicable,
see Section D
of the Schedule

12. PAYMENT WILL BE MADE BY
Code:
Environmental Protection Agency
Financial Mgmt. Div. (MD32)
Attn: Accounts Payable Br.
Research Triangle Pk, NC 27711

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13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION
[ ] 10 U.S.C. 2304(c)( )
[ ] 41 U.S.C. 253 (c) ( )

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14. ACCOUNTING AND APPROPRIATION DATA

C-1	68/20X8145	PS0B81A400	2535	T2A363	$1,000,000.00
C-1	686/70108	6B0081C000	2535	T2C033	$1,000,000.00

15A. ITEM NO.	15B. SUPPLIES/ SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT

SS ACTG REQD

See Schedule

15G. TOTAL AMOUNT OF CONTRACT $12,793,256.00

APPROVED BY OIRM 3/84, FAR (48 CFR 53.214(c)) EXCEPTION TO STANDARD FOR'

59-01-7331

AWARD/CONTRACT

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16. TABLE OF CONTENTS

PART/SECTION DESCRIPTION

PART I - THE SCHEDULE
  A SOLICITATION/CONTRACT FORM
  B SUPPLIES OR SERVICES AND PRICES/COSTS
  C DESCRIPTION/SPECIFICATIONS/WORK STATEMENT
  D PACKAGING AND MARKING
  E INSPECTION AND ACCEPTANCE
  F DELIVERIES OR PERFORMANCE
  G CONTRACT ADMINISTRATION DATA
  H SPECIAL CONTRACT REQUIREMENTS
PART II - CONTRACT CLAUSES
  I CONTRACT CLAUSES
PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS
  J LIST OF ATTACHMENTS
PART IV - REPRESENTATIONS AND INSTRUCTIONS
  K REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

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17. [X] CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 3 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b the solicitation, if any, and (c) such provisions, representations, certifications, and specifications as are attached or incorporated by reference herein. (Attachments are listed herein.)

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18. [] AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _________, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as t the Items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractua document is necessary.

19A. NAME AND TITLE OF SIGNER (Type or print)
Gary A. Dunbar SVP

19B. NAME OF CONTRACTOR
by
(Signature of person authorized to sign)

19C. DATE SIGNED
June 30, 1986

20A. NAME OF CONTRACTING OFFICER
Katherine J. Seikel

20B. UNITED STATES OF AMERICA
by
(Signature of Contracting Officer)

20C. DATE SIGNED
6/30/86

APPROVED BY OIRM 3/84, FAR (48 CFR 53.214(c)) EXCEPTION TO STANDARD FORM 26

68-C1-7331

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SECTION B - SUPPLIES OR SERVICES AND PRICE/COSTS

B.1 LEVEL OF EFFORT--COST-REIMBURSEMENT TERM CONTRACT (EPAAR 1552.212-70) (APR 1984)

(a) The Contractor shall perform all work and provide all required reports within the level of effort specified below. The Government will order 240,000 direct labor hours for the base period which represents the Government's best estimate of the level of effort required to fulfill these requirements.

(b) Direct labor includes personnel such as engineers, scientists, draftsmen, technicians, statisticians, and programmers and not support personnel such as company management, typists, and key punch operators even though such support personnel are normally treated as direct labor by the Contractor. The level of effort specified in paragraph (a) includes Contractor, subcontractor, and consultant labor hours.

(c) If the Contractor provides less than 90 percent of the level of effort specified for the base period or any optional period ordered, an equitable downward adjustment of the fixed fee, if any, for that period will be made. The Government may require the Contractor to provide additional effort up to 110 percent of the level of effort for any period until the estimated cost for that period has been reached. However, this additional effort shall not result in any increase in the fixed fee, if any. If this is a cost-plus-incentive-fee (CPIF) contract, the term "fee" in this paragraph means "base fee and incentive fee." If this is a cost-plus-award-fee (CPAF) contract, the term "fee" in this paragraph means "base fee and award fee."

(d) If the level of effort specified to be ordered during a given base or option period is not ordered during that period, that level of effort may not be accumulated and ordered during a subsequent period.

(e) These terms and conditions do not supersede the requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

B.2 WORK ASSIGNMENTS (EPAAR 1552.212-71) (APR 1984)

(a) The Contractor shall perform work under this contract as specified in written work assignments issued by the Contracting Officer.

(b) Each work assignment will include (1) a numerical designation, (2) the estimate of required labor hours, (3) the period of performance and schedule of deliverables, and (4) the description of the work.

(c) The Contractor shall acknowledge receipt of each work assignment by returning to the Contracting Officer a signed copy of the work assignment within 5 calendar days after its receipt. The Contractor shall begin work immediately upon receipt of a work assignment.

Within 15 calender days after receipt of a work assignment, the Contractor shall submit 2 copies of a work plan to the Project Officer and 1 copies to the Contracting Officer. The work plan shall include a detailed technical and staffing plan and a detailed cost estimate.

Within 15 calendar days after receipt of the work plan, the Contracting Officer will provide written approval or disapproval of it to the Contractor.

If the Contractor has not received approval on a work plan within 45 calendar days after its submission, the Contractor shall stop work on that work assignment. Also, if the Contracting Officer disapproves a work plan, the Contractor shall stop work until the problem causing the disapproval is resolved. In either case, the Contractor shall resume work only when the Contracting Officer finally approves the work plan.

(d) This clause does not change the requirements of the "Level of Effort" clause, nor the notification requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

(e) Work assignments shall not allow for any change to the terms or conditions of the contract. Where any language in the work assignment may suggest a change to the terms or conditions, the Contractor shall immediately notify the Contracting Officer.

B.3 AWARD FEE (EPAAR 1552.216-70) (APR 1984)

The amount of award fee the Contractor earns, if any, is based on a subjective evaluation by the Government of the quality of the Contractor's performance in accordance with the award fee plan. The Government will determine the amount of award fee every 4 months beginning with 4 months after the effective date of the contract. The Fee Determination Official (FDO) will unilaterally determine the amount of award fee. The FDO's determination will be in writing to the Contractor and is not subject to the "Disputes" clause. The Government may unilaterally change the award fee plan at any time and will provide such changes in writing to the Contractor prior to the beginning of the applicable evaluation period. The Contractor may submit a voucher for the earned award fee. Available award fee not earned during one period does not carry over to subsequent periods.

B.4 ESTIMATED COST, BASE FEE AND AWARD FEE
(EP 52.216-200) (APR 1984)

(a) The estimated cost of this contract is $12,169,219.00.

(b) The base fee is $204,443.00.

(c) The award fee pool available for award for this contract is $419,395.00.

(d) This contract will be modified to reflect the award fee awarded as award fee determinations are made.

B.5 OTHER DIRECT COSTS (EP 52.231-110) (APR 1984)

For the categories listed, direct costs in excess of the following are not allowable as a charge to this contract without the prior written approval of the Contracting Officer:

Period	Maximum Amounts	
	Travel	Other Direct Costs
Base	$720,000	$2,880,000
Base Increment	720,000	2,880,000
Option Period	855,000	3,420,000
Option Increment	855,000	3,420,000

The following are examples of the types of cost elements making up the Other Direct Costs category:

- Telephone (including long distance)
- Postage
- Duplication/reproduction
- Expert Witnesses

It should be noted that Subcontract costs are not considered Other Direct Costs.

B.6 LIMITATION OF FUNDS--COST-PLUS-AWARD-FEE CONTRACT (EP 52.232-110) (APR 1984)

(a) Pursuant to the clause in this contract entitled "Limitation of Funds," funds have been allotted for the payment of allowable costs and fees estimated to be incurred for the contract period ending approximately August 31, 1986.

Funding is allocated in accordance with the following schedule:

Estimated Costs	$1,902,444.00
Base Fee	$31,960.00
Award Fee Pool	$65,596.00
TOTAL FUNDS	$2,000,000.00

(b) The provisions of the clause entitled "Limitation of Funds" shall become inapplicable at such time as an amount equal to the sum of the total estimated cost, base fee, award fee pool available for award, and award fee awarded, set forth in the schedule of this contract, is allotted to this contract and the clause entitled "Limitation of Cost" shall be applicable.

SECTION C - DESCRIPTION/SPECIFICATION/WORK STATEMENT

C.1 STATEMENT OF WORK--CONTRACT WHERE WORK IS ORDERED BY WORK ASSIGNMENTS OR DELIVERY ORDERS (EP 52.210-100) (APR 1984)

The Contractor shall furnish the necessary personnel, material, equipment, services and facilities (except as otherwise specified), to perform the Statement of Work/Specifications included in Attachment A.

The Contractor shall perform work under this contract only as directed in work assignments issued by the Contracting Officer.

C.2 INCORPORATION OF CONTRACTOR'S TECHNICAL PROPOSAL (EP 52.210-120) (APR 1984)

The Contractor's technical proposal entitled, "Technical Enforcement Support at Hazardous Waste Sites" dated 12-12-85, as modified, is incorporated by reference and made a part of this contract. In the event of any inconsistency between the provisions of this contract and the Contractor's technical proposal, the contract provisions take precedence.

C.3 INCORPORATION OF CONTRACTOR'S QUALITY ASSURANCE (QA) PROJECT PLAN (EP 52.210-130) (APR 1984)

The Contractor shall adhere to the procedures set forth in its QA Project Plan dated December 12, 1985, which is incorporated by reference.

SECTION D - PACKAGING AND MARKING

[For this Contract, there are NO clauses in this Section]

SECTION E - INSPECTION AND ACCEPTANCE

E.1 INSPECTION AND ACCEPTANCE (EP 52.246-100) (APR 1984)

(a) The Contracting Officer or the duly authorized representative will perform inspection and acceptance of materials and services to be provided.

(b) For the purposes of this clause, Jack Jojokian is the authorized representative of the Contracting Officer.

(c) Inspection and acceptance will be performed at
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

SECTION F - DELIVERIES OR PERFORMANCE

F.1 REPORTS OF WORK (EPAAR 1552.210-70) (APR 1984)

The Contractor shall prepare and deliver reports in accordance with Attachment D.

The OMB clearance number for progress reports delivered under this contract is 2030-0005, with an expiration date of August 31, 1986.

F.2 WORKING FILES (EPAAR 1552.210-74) (APR 1984)

The Contractor shall maintain accurate working files on all work documentation including calculations, assumptions, interpretations of regulations, sources of information, and other raw data required in the performance of this contract. The Contractor shall provide the information contained in its working files upon request of the Contracting Officer.

F.3 PERIOD OF PERFORMANCE--STARTING WITH EFFECTIVE DATE OF THE CONTRACT (EP 52.212-150) (APR 1984)

The period of performance of this contract is from the effective date of the contract through September 30, 1987 inclusive of any required reports.

SECTION G - CONTRACT ADMINISTRATION DATA

G.1 SUBCONTRACTING PROGRAM FOR SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS (EP 52.219-105) (APR 1984)

The subcontracting plan submitted and approved by the Contracting Officer for this requirement is incorporated as Attachment B.

G.2 SUBCONTRACTING REPORTS--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS (EP 52.219-120) (APR 1984)

The Contractor shall submit a report for subcontracting under this particular contract and a summary report on subcontracts in all contracts between the Contractor and the EPA which contain subcontract goals for awards to small business and small disadvantaged business concerns.

The Contractor shall submit subcontracting reports on Standard Forms 294 and 295. The reports shall be submitted semi-annually and quarterly respectively in accordance with the General Instructions on the reverse side of the forms.

Copies of these reports shall be delivered to:

Distribution	Addressee
1 original	Contracting Officer
1 copy	Socioeconomic Officer, Office of Small & Disadvantaged Business Utilizatization 401 M Street, S.W. (A-149) Washington, D.C. 20460

G.3 APPLICATION OF PROMPT PAYMENT ACT--CONTRACTS WITH ADVANCE, PROGRESS, OR PROVISIONAL PAYMENTS (EPAAR 1552.232-70) (APR 1984)

The provisions of the Prompt Payment Act, Pub. L. 97-177 (96 Stat. 84, 31 U.S.C. 1801-06) apply only to the final payment to be made following completion of the services required by the Statement of Work. Provisional and progress payments made during performance of the contract are not subject to interest on overdue payments.

(a) Payment due date.

(1) A final voucher for the balance of the contract shall be submitted by the Contractor together with appropriate contractor releases of claims. This final voucher, if a proper voucher, shall be paid within 30 days of actual receipt in the office designated to review the invoice.

(2) The date of the check issued in payment or the date of payment by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

(b) Invoices.

(1) An invoice is a written request for payment under the contract for supplies delivered or for services rendered. In order to be proper, an invoice under a cost-reimbursement contract must be prepared in accordance with EPA Form 1900-34, "Guide for the Preparation of Contractor's Claims for Reimbursement of Costs and Fees Under Cost Reimbursement Type Contracts" or EPA Form 1900-34A, "Guide for the Preparation of Contractor's Claims for Reimbursement of Costs and Fees Under Cost-Plus-Award-Fee (CPAF) Type Contracts," and include as applicable the following:

(i) Invoice date;

(ii) Name of contractor;

(iii) Contract number (including order number, if any), contract line item number, contract description of supplies or services, quantity, contract unit of measure or unit price, and extended total;

(iv) Shipment number and date of shipment; (bill of lading number and weight of shipment will be shown for shipments on Government bills of lading);

(v) Name and address to which payment is to be sent (which must be the same as that in the contract or on a proper notice of assignment);

(vi) Any other information or documentation required by other provisions of the contract (such as evidence of shipment);

(vii) If a cost-reimbursement term form contract with work assignments, a summary of amounts claimed against each work assignment.

(viii) If an indefinite delivery/indefinite quantity contract, a summary of amounts claimed against each delivery order.

(2) Invoices shall be prepared and submitted in quadruplicate (one copy shall be marked "original") unless otherwise specified.

(c) For purposes of determining if interest begins to accrue under the Prompt Payment Act (Pub. L. 97-177):

(1) A proper invoice will be deemed to have been received when it is received by the office designated in the contract for receipt of invoices and acceptance of the supplies delivered or services rendered has occurred;

(2) Payment terms (e.g., "net 20") offered by the Contractor will not be deemed "required payment dates"; and

(3) The following periods of time will not be included:

(i) After receipt of an improper invoice and prior to notice of any defect or impropriety, but not to exceed fifteen (15) days (or any lesser period established by this contract);

(ii) Between the date of a notice of any defect or impropriety and the date a proper invoice is received. (When the notice is in writing, it shall be considered made on the date shown on the notice.)

G.4 INTEREST ON OVERDUE PAYMENTS (EP 52.232-210) (APR 1984)

(a) The Prompt Payment Act, Public Law 97-177 (96 Stat. 85, 31 U.S.C. 1801) is applicable to the final payment under this contract and requires the payment to Contractors of interest on overdue payments and improperly taken discounts.

(b) Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125.

G.5 METHOD OF PAYMENT (EP 52.232-220) (APR 1984)

(a) Payments under this contract will be made either by check or by wire transfer through the Treasury Financial Communications System at the option of the Government.

(b) The Contractor shall forward the following information in writing to the paying office designated in this contract not later than 7 days after receipt of notice of award.

(1) Full name (where practicable), title, phone number, and complete mailing address of responsible official(s), (i) to whom check payments are to be sent, and (ii) who may be contacted concerning the bank account information requested below.

(2) The following bank account information required to accomplish wire transfers:

(i) Name, address, and telegraphic abbreviation of the receiving financial institution.

(ii) Receiving financial institution's 9-digit American Bankers

Association (ABA) identifying number for routing transfer of funds. (Provide this number only if the receiving financial institution has access to the Federal Reserve Communications System.)

(iii) Recipient's name and account number at the receiving financial institution to be credited with the funds.

(iv) If the receiving financial institution does not have access to the Federal Reserve Communications System, provide the name of the correspondent financial institution through which the receiving financial institution receives electronic funds transfer messages. If a correspondent financial institution is specified, also provide:

(A) Address and telegraphic abbreviation of the correspondent financial institution.

(B) The correspondent financial institution's 9-digit ABA identifying number for routing transfer of funds.

(c) Any changes to the information furnished under paragraph (b) of this clause shall be furnished to the paying office in writing at least 30 days before the effective date of the change. It is the contractor's responsibility to furnish these changes promptly to avoid payments to erroneous addresses or bank accounts.

(d) The document furnishing the information required in paragraphs (b) and (c) must be dated and contain the signature, title, and telephone number of the Contractor official authorized to provide it, as well as the Contractor's name and contract number.

(e) If this contract is assigned, the Contractor shall ensure that the information required above is submitted by the assignee to the paying office designated in the contract.

G.6 INDIRECT COSTS (EPAAR 1552.242.70) (APR 1984)

(a) In accordance with paragraph (d) of the "Allowable Cost and Payment" clause, the final indirect cost rates applicable to this contract shall be established between the Contractor and the appropriate Government representative (EPA, other Government agency, or auditor), as provided by FAR 42.703(a). EPA's procedures require a Contracting Officer determination of indirect cost rates for its contracts. In those cases where EPA is the cognizant agency (see FAR 42.705-1), the final rate proposal shall be submitted to the cognizant audit activity and to the following designated Contracting Officer:

Environmental Protection Agency
Chief, Cost Policy and Rate Negotiation Section (PM-214-F)
Procurement and Contracts Management Division
Washington, DC 20460

Where EPA is not the cognizant agency, the final rate proposal shall be submitted to the above-cited address, to the cognizant audit agency, and to the designated Contracting Officer of the cognizant agency. Upon establishment of the final indirect cost rates, the Contractor shall submit an executed Certificate of Current Cost or Pricing Data (see FAR 15.804-4) applicable to the data furnished in connection with the final rates to the cognizant audit agency. The final rates shall be contained in a written understanding between the Contractor and the appropriate Government representative. Pursuant to the "Allowable Cost and Payment" clause, the allowable indirect costs under this contract shall be obtained by applying the final agreed upon rate(s) to the appropriate bases.

(b) Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the appropriate Government representative in accordance with FAR 42.704, subject to adjustment when the final rates are established. The established billing rates are currently as follows:

Cost Center	Fringe Benefits (CDM)
Period	Effective Date of Contract Until Amended
Rate	34.0%
Base	Direct Labor Dollars
Cost Center	Overhead (CDM)
Period	Effective Date of Contract Until Amended
Rate	45.0%
Base	Direct Labor Dollars and Fringe Benefits
Cost Center	G&A (CDM)
Period	Effective Date of Contract Until Amended
Rate	5.0%
Base	Total Costs Exclusive of CDM Regional Expenses
Cost Center	G&A (CDM)
Period	Effective Date of Contract Until Amended
Rate	4.0%
Base	CDM Regional Expenses Only

These billing rates may be prospectively or retroactively revised by mutual agreement, at the request of either the Government or the Contractor, to prevent substantial overpayment or underpayment.

G.7 CONTRACT ADMINISTRATION
(EP 52.242-100) (APR 1984)

Project Officer(s) for this contract:
Jack Jojokian, Project Officer

(202) 382-2105
Linda N. Stewart, Deputy Project Officer
(202) 382-2318 TELEPHONE See Above

Contract Specialist(s) responsible for administering this contract:

Bruce M. Bakaysa
U.S. Environmental Protection Agency
401 M Street, SW, Code PM-214-F
Washington, DC 20460 TELEPHONE (202) 382-2314

G.8 NOTIFICATION OF CHANGES
(FAR 52.243-7) (APR 1984)

(a) Definitions. "Contracting Officer," as used in this clause, does not include any representative of the Contracting Officer. "Specifically Authorized Representative (SAR)," as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of which shall be provided to the Contractor) which shall refer to this subparagraph and shall be issued to the designated representative before the SAR exercises such authority.

(b) Notice. The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer in writing promptly, within 15 calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state--

(1) The date, nature, and circumstances of the conduct regarded as a change;

(2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;

(3) The identification of any documents and the substance of any oral communication involved in such conduct;

(4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;

(5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including--

(i) What contract line items have been or may be affected by the alleged change;

(ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;

(iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;

(iv) What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and

(6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.

(c) Continued performance. Following submission of the notice required by (b) above, the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless the notice reports a direction of the Contracting Officer or a communication from a SAR of the Contracting Officer, in either of which events the Contractor shall continue performance; provided, however, that if the Contractor regards the direction or communication as a change as described in (b) above, notice shall be given in the manner provided. All directions, communications, interpretations, orders and similar actions of the SAR shall be reduced to writing promptly and copies furnished to the Contractor and to the Contracting Officer. The Contracting Officer shall promptly countermand any action which exceeds the authority of the SAR.

(d) Government response. The Contracting Officer shall promptly, within 15 calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer shall either--

(1) Confirm that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;

(2) Countermand any communication regarded as a change;

(3) Deny that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance; or

(4) In the event the Contractor's notice information is inadequate to make a decision under (1), (2), or (3) above, advise the Contractor what additional information is required, and establish the date by which it should be furnished and the date thereafter by which the Government will respond.

(e) Equitable adjustments. (1) If the Contracting Officer confirms that Government conduct effected a change as alleged by the Contractor, and the conduct causes an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed or not changed by such conduct, an equitable adjustment shall be made--

(i) In the contract price or delivery schedule or both; and

(ii) In such other provisions of the contract as may be affected.

(2) The contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by the Contracting Officer under this clause is included in the equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor's failure to provide notice or to continue performance as provided, respectively, in (b) and (c) above.

G.9 SUBCONTRACT CONSENT (EP 52.244-100) (APR 1984)

The Contractor shall submit the information required by the "Subcontracts," clause to the Contracting Officer and assigned Project Officer. The Contracting Officer will provide written notice to the Contractor of his decision.

Consent is given to issue the following subcontracts:

A. Consent is hereby given to issue the following subcontracts during the base period of performance:

Subcontractor	Total Not to Exceed Amount
Versar, Inc.	$1,667,743
Booz Allen & Hamilton, Inc.	1,393,415
PRC Environmental Management, Inc.	922,034
TechLaw, Inc.	635,715
Labat Anderson, Inc.	329,288
Priede Sedgwick, Inc.	252,378
Geoscience Consultants, Ltd.	237,592*
SRA Technologies, Inc.	220,496
Life Systems, Inc.	160,875
Hydraulic & Water Resources Engineers, Inc. (HWRE)	59,621
AEPCO, Inc.	67,091
Sobotka and Co., Inc.	53,977
Geo Resources, Inc.	39,459

Lee Wan & Associates, Inc.	37,542
Putnam, Hayes & Bartlett, Inc.	7,288

* CONSENT IS SUBJECT TO RECEIPT OF EEO COMPLIANCE REVIEW (Contract will be modified to indicate consent when EEO Compliance Reviews are received)

B. If the options are exercised in accordance with Article H.4 -- OPTION TO EXTEND TERM OF THE CONTRACT and/or Article H.5 -- OPTION FOR INCREASED QUANTITY, the total not to exceed amount for each subcontractor will be increased as follows:

	Total Not to Exceed Amounts		
Subcontractor	Base Increment	Option I	Option I Increment
Versar, Inc.	$1,667,743	$2,089,015	$2,089,015
Booz Allen & Hamilton	1,393,415	1,741,499	1,741,499
PRC	922,034	1,167,949	1,167,949
TechLaw, Inc.	655,715	837,063	837,063
Labat Anderson, Inc.	329,872	417,136	417,831
Friede Sedgwick, Inc.	253,029	313,583	314,330
Geoscience Consultants	238,002	299,854	300,373
SRA Technologies	220,542	279,077	279,127
Life Systems, Inc.	160,678	192,424	192,136
HWRE	59,060	74,442	73,701
AEPCO	67,000	84,991	84,869
Sobotka & Co., Inc.	55,025	68,324	69,681
Geo Resources, Inc.	40,883	50,053	50,026
Lee Wan & Associates	37,480	46,666	46,579
Putnam Hayes & Bartlett	7,545	9,582	9,907

G.10 DECONTAMINATION OF GOVERNMENT PROPERTY (EPAAR 1552.245-70) (APR 1984)

In addition to the requirements of the "Government Property" clause, the Contractor shall certify in writing that any Government-furnished property or Contractor-acquired property is returned to the Government free from contamination by any hazardous or toxic substances.

G.11 GOVERNMENT-FURNISHED DATA (EPAAR 1552.245-71) (APR 1984)

(a) The Government shall deliver to the Contractor the Government-furnished data described in the contract. If the data, suitable for its intended use, is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the "Changes" clause when:

(1) The Contractor submits a timely written request for an equitable adjustment; and

(2) The facts warrant an equitable adjustment.

(b) Title to Government-furnished data shall remain in the Government.

(c) The Contractor shall use the Government-furnished data only in connection with this contract.

(d) The data will be furnished to the Contractor as specified in the Work Assignment.

G.12 DESIGNATION OF PROPERTY ADMINISTRATOR (EP 52.245-140) (APR 1984)

The contract property administrator:

Facilities & Support Services
Division, PM-215, EPA
Washington, DC 20460

is the Contracting Officer's designated representative on property matters. The Contractor shall furnish all required information on property to the property administrator.

G.13 INDIRECT CEILINGS - SUBCONTRACTS

The contractor will not be reimbursed for any subcontractor indirect cost rates that exceed the following ceilings:

Subcontractor	Cost Center	Period	Ceiling Rate	Base
Lee Wan & Assoc., Inc.	Overhead	*	145.0%	Direct Labor Dollars
GeoScience Cons. Ltd.	Overhead	*	54.0%	Direct Labor Dollars
Labat Andersen, Inc.	Fringe Benefits	*	30.0%	Direct Labor Dollars
Putnam Hayes & Bartlett, Inc.	Overhead	*	175.0%	Direct Labor Dollars
TechLaw, Inc.	Overhead (Reston)	Effective Date thru 9/30/87	123.0%	Reston Direct Labor Dollars
	Overhead	Effective	115.0%	Denver

(Denver)	Date thru 9/30/87	Direct Labor Dollars

* Entire period of contract performance including option.

G.14 SUBCONTRACT ACCOUNTING SYSTEMS

The contractor will insure that the following subcontractors implement adequate accounting systems to accurately track incurred costs on a job-cost basis. The Government reserves the right to seek reimbursement from the contractor for costs questioned as a result of inadequate subcontractor accounting systems.

Geoscience Consultants, Ltd.
Hydraulic & Water Resource Engineers, Inc.
Lee Wan & Associates, Inc.
Priede Sedgwick, Inc.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 SPECIAL CONTRACT REQUIREMENTS INCORPORATED BY REFERENCE (EP52.252-110) (APR 1984)

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

Federal Acquisition Regulation (FAR) clauses, if any, may be found in 48 CFR Chapter 1. Environmental Protection Agency Acquisition Regulation (EPAAR) clauses, if any, may be found in 48 CFR 15.

1552.227-72	JUL 1985	RIGHTS IN DATA SPECIAL WORKS
1552.227-74	APR 1984	ADDITIONAL DATA REQUIREMENTS

H.2 PRINTING (EPAAR 1552.208-70) (APR 1984)

Unless otherwise specified in this contract, the Contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 units of only one page, or less than 25,000 units in the aggregate of multiple pages, such pages not exceeding a maximum image size of 10 3/4 by 14 1/4 inches, will not be deemed to be printing.

H.3 ORGANIZATIONAL CONFLICTS OF INTEREST (EPAAR 1552.209-71) (APR 1984)

(a) The Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, or that the Contractor has disclosed all such relevant information.

(b) The Contractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the Contractor will make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict.

(c) Remedies - The EPA may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the Contracting Officer, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(d) The Contractor further agrees to insert in any subcontract or consultant agreement hereunder, provisions which shall conform substantially to the language of this clause, including this paragraph (d).

H.4 OPTION TO EXTEND THE TERM OF THE CONTRACT-- COST-PLUS-AWARD-FEE CONTRACT (EPAAR 1552.217-72) (APR 1984)

The Government has the option to extend the term of this contract for 1, additional periods. If more than 60 days remain in the contract period of performance, the Government, without prior written notification, may exercise this option by issuing a contract modification. To exercise this option within the last 60 days of the period of performance, the Government must provide to the Contractor written notification prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option.

Use of an option will result in the following contract modifications:

(a) The "Period of Performance" clause will be amended to cover:

Period	Start Date	End Date
Option Period I	10-1-87	06-29-89

(b) Paragraph (a) of the "Level of Effort" clause will be amended to reflect a new and separate level of effort:

Period	Level of Effort (Direct Labor Hours)
Option Period I	285,000

(c) The "Estimated Cost Base Fee and Award Fee" clause will be amended to reflect increased estimated costs and base fee and award fee pool for each option period as follows:

Period	Estimated Cost	Base Fee	Award Fee Pool	Total
Option Period I	$15,041,926.00	$252,704.00	$518,646.00	$15,813,276.00

(d) The "Other Direct Costs", Article B.5, will be modified to includ the designated amount(s)in the clause fon the option period and/or option for increased quantity period(s) for total other direct cost and travel ceilings when the option(s) is (are) exercised.

H.5 OPTION FOR INCREASED QUANTITY--COST-PLUS-AWARD-FEE CONTRACT (EPAAR 1552.217-74) (APR 1984)

By issuing a contract modification, the Government may increase the estimated level of effort by:

Option Period	Level of Effort (Direct Labor Hours)
Base Period	240,000
Option Period I	285,000

15000 ⟌285,000 = 19 multiples

The Government may issue a maximum of 5 orders to increase the level of effort in multiples of 15,000 hours during any given period. The estimated cost, base fee, and award fee pool of each multiple of hours is as follows:

Period	Estimated Cost	Base Fee	Award Fee Pool	Total
Base Period	$760,694.00✓	$12,780.00✓	$26,229.00	$799,703.00
Option Period I	$791,703.00	$13,301.00	$27,298.00	$832,302.00
	× 19	× 19	× 19	× 19
	15,042,357	252,719	518,662	15,813,738

When these options are exercised, paragraph (a) of the "Level of Effort" clause and the "Estimated Cost, Base Fee, and Award Fee" clause will be modifi accordingly.

H.6 INSURANCE--LIABILITY TO THIRD PERSONS--COMMERCIAL ORGANIZATIONS
(EPAAR 1552.228-70) (APR 1984)

(a) The Contractor shall procure and maintain such insurance as is required by law or regulation, including that required by FAR Part 28, in effect as of the date of execution of this contract, and any such insurance as the Contracting Officer may, from time to time, require with respect to performance of this contract.

(b) At a minimum, the Contractor shall procure and maintain the following types of insurance:

(1) Workmen's compensation and occupational disease insurance in amounts to satisfy State law;

(2) ~~Employer's liab~~ility insurance in the minimum amount of $100,000 per occurrence;

(3) Comprehensive general liability insurance for bodily injury, death or loss of or damage to property of third persons in the minimum amount of $1,000,000 per occurrence;

(4) When vessels are used in the performance of the contract, vessel collision liability and protection and indemnity liability insurance in such amounts as the Contracting Officer may require or approve: provided, that the Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program. All insurance required pursuant to the provisions of this paragraph shall be in such form and for such periods of time as the Contracting Officer may, from time to time, require or approve and with insurers approved by the Contracting Officer.

(c) The Contractor agrees, to the extent and in the manner required by the Contracting Officer, to submit for the approval of the Contracting Officer any other insurance maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement hereunder.

(d) The Contractor shall be reimbursed, for the portion allocable to this contract, the reasonable cost of insurance (including reserves for self-insurance) as required or approved pursuant to the provisions of this contract clause.

(e) The Government will hold harmless and indemnify the Contractor against claims (including expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, bodily injury, or loss of or damage to property arising out of performance of this contract, to the extent that such a claim is not compensated by insurance or otherwise. Any such claim within deductible amounts of the Contractor's insurance will not be covered under this contract clause. Reimbursement for such liabilities to third persons will not cover liabilities for which the Contractor has failed to insure as required or to maintain insurance as approved by the Contracting Officer. The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities) that result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of--

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(f) The Government may discharge its liability under this contract clause by making payments directly to the Contractor or directly to parties to whom the Contractor may be liable.

(g) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract the same provisions in this clause whereby the Contractor shall indemnify the subcontractor. Such a subcontract shall provide the same rights and duties and the same provisions for notice, furnishings of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this clause. Similar indemnification may be provided for subcontractors at any time upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this contract clause shall provide for prompt notification to the Contractor which is covered by this contract clause, and shall entitle the Government, at its election, to control or assist in the settlement or defense of any such claim or action. The Government will indemnify the Contractor with respect to his obligations to subcontractors under such subcontract provisions. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractors may be liable.

(h) If insurance coverage required or approved by the Contracting Officer is reduced without the Contracting Officer's approval, the liability of the Government under this contract clause will not be increased by reason of such reduction.

(i) The Contractor shall:

(1) Promptly notify the Contracting Officer of any claim or action against the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this contract clause;

(2) Furnish evidence or proof of any claim covered by this contract clause in the manner and form required by the Government; and

(3) Immediately furnish the Government copies of all pertinent papers received by the Contractor. The Government may direct, control, or assist the settlement or defense of any such claim or action. The Contractor shall comply with the Government's directions, and execute any authorizations required in regard to such settlement or defense.

(j) Reimbursement for any liabilities under this contract clause will not exceed appropriations available at the time such liabilities are represented by final judgments or by settlements approved in writing by the Government. This agreement to reimburse the Contractor for certain liabilities will not be interpreted as implying that Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

H.7 SCREENING BUSINESS INFORMATION FOR CLAIMS OF CONFIDENTIALITY
(EPAAR 1552.235-70) (APR 1984)

(a) Whenever collecting information under this contract, the Contractor agrees to comply with the following requirements:

(1) If the Contractor collects information from public sources, such as books, reports, journals, periodicals, public records, or other sources that are available to the public without restriction, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(2) If the Contractor collects information from a State or local Government or from a Federal agency, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(3) If the Contractor collects information directly from a business or from a source that represents a business or businesses, such as a trade association:

(i) Before asking for the information, the Contractor shall identify itself, explain that it is performing contractual work for the Environmental Protection Agency, identify the information that it is seeking to collect, explain what will be done with the information, and give the following notice:

(A) You may, if you desire, assert a business confidentiality claim covering part or all of the information. If you do assert a claim, the information will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B.

(B) If no such claim is made at the time this information is received by the Contractor, it may be made available to the public by the Environmental Protection Agency without further notice to you.

(C) The Contractor shall, in accordance with FAR Part 9, execute a written agreement regarding the limitations of the use of this information and forward a copy of the agreement to the Contracting Officer.

(ii) Upon receiving the information, the Contractor shall make a written notation that the notice set out above was given to the source, by whom, in what form, and on what date.

(iii) At the time the Contractor initially submits the information to the appropriate program office, the Contractor shall submit a list of these sources, identify the information according to source, and indicate whether the source made any confidentiality claim and the nature and extent of the claim.

(b) The Contractor shall keep all information collected from nonpublic sources confidential in accordance with the clause in this contract entitled "Treatment of Confidential Business Information" as if it had been furnished to the Contractor by EPA.

(c) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will require the subcontractor to collect information. The Contractor agrees to include this clause, including this paragraph (c), and the clause entitled "Treatment of Confidential Business Information" in all subcontracts awarded pursuant to this contract that require the subcontractor collect information.

H.8 TREATMENT OF CONFIDENTIAL BUSINESS INFORMATION (EPAAR 1552.235-71) (APR 1984)

(a) The Contracting Officer, after a written determination by the appropriate program office, may disclose confidential business information to the Contractor necessary to carry out the work required under this contract. The Contractor agrees to use the confidential information only under the following conditions:

(1) The Contractor and Contractor's Employees shall: (i) use the confidential information only for the purposes of carrying out the work required by the contract; (ii) not disclose the information to anyone other than EPA employees without the prior written approval of the Assistant General Counsel for Contracts and Information Law; and (iii) return to the Contracting Officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the Contracting Officer, whenever the information is no longer required by the Contractor for the performance of the work required by the contract, or upon completion of the contract.

(2) The Contractor shall obtain a written agreement to honor the

above limitations from each of the Contractor's employees who will have access to the information before the employee is allowed access.

(3) The Contractor agrees that these contract conditions concerning the use and disclosure of confidential information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

(4) The Contractor shall not use any confidential information supplied by EPA or obtained during performance hereunder to compete with any business to which the confidential information relates.

(b) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will involve the disclosure of confidential business information by the Contractor to the subcontractor. The Contractor agrees to include this clause, including this paragraph (b), in all subcontracts awarded, pursuant to this contract, that require the furnishing of confidential business information to the subcontractor.

H.9 TECHNICAL DIRECTION
(EPAAR 1552.237-71) (APR 1984)

(a) The Project Officer will provide technical direction on contract performance. Technical direction includes:

(1) Direction to the Contractor which assists him in accomplishing the Statement of Work.

(2) Comments on and approval of reports or other deliverables.

(b) Technical direction must be within the contract Statement of Work. The Project Officer does not have the authority to issue technical direction which (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in the "Changes" clause; (3) causes an increase or decrease in the estimated cost of the contract; (4) alters the period of performance; or (5) changes any of the other express terms or conditions of the contract.

(c) Technical direction will be issued in writing by the Project Officer or confirmed by him/her in writing within five (5) calendar days after verbal issuance.

H.10 KEY PERSONNEL (EPAAR 1552.237-72) (APR 1984)

(a) The Contractor shall assign to this contract the following key personnel:

Charles H. Wahtola (Camp Dresser & McKee (CDM))

Brendan M. Harley (CDM)
Elio F. Arniella (CDM)
Norman W. Gabel (Versar)
Linda J. Brown (CDM)
Timothy L. Cannon (CDM)
Frank C. Sapienza (CDM)
Mark A. Swatek (CDM)
Tom Pedersen (CDM)
Myron S. Weinberg (Booz Allen & Hamilton)
Lawrence J. Partridge, Jr. (CDM)
Gayle Roehm (Booz Allen & Hamilton)
Heather Burns (Booz Allen & Hamilton)
Robert M. Kane (CDM)
Clark H. Wolverton (CDM)
Andrew W. Oravetz, Jr. (CDM)
Gary K. Behrens (CDM)
Eric D. Juergens (Versar)
James R. Foster (Versar)
Harry P. Butler (CDM)
Burnie Marvin (CDM)
Dana Pedersen (CDM)
Robert Goltz (CDM)
Robert Hyde (CDM)
Mary Leslie (CDM)
Sarah E. Lowe (CDM)

(b) During the first 120 days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial 90-day period, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 days prior to making any permanent substitutions.

(c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. This clause will be modified to reflect any approved changes of key personnel.

H.11 PUBLICITY (EPAAR 1552.237-74) (APR 1984)

(a) The Contractor agrees to notify and obtain the verbal approval of the on-scene coordinator (or Project Officer) prior to releasing any information to the news media regarding the removal or remedial activities being conducted under this contract.

(b) It is also agreed that the Contractor shall acknowledge EPA support whenever the work funded in whole or in part by this contract is publicized in any news media.

H 12 PAPERWORK REDUCTION ACT (EPAAR 1552.237-75) (APR 1984)

If it is established at award or subsequently becomes a contractual requirement to collect identical information from ten (10) or more public respondents, the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. applies. In that event, the Contractor shall not take any action to solicit information from any of the public respondents until notified in writing by the Contracting Officer that the required Office of Management and Budget (OMB) final clearance was received.

H. 13 FABRICATION OR ACQUISITION OF NONEXPENDABLE PROPERTY (EPAAR 1552.245-72) (APR 1984)

The Contractor shall not fabricate nor acquire under this contract, either directly or indirectly through a subcontract, any item of nonexpendable property without written approval from the Contracting Officer.

H. 14 CONSULTANT SERVICES AND CONSENT (EPAAR 1552.237-73) (APR 1984)

The Contractor shall obtain the consent of the Contracting Officer prior to using any consultant on this contract. The Contractor shall determine whether any consultant that is used has in effect an agreement with another Federal agency for similar or like services and, if so, shall notify the Contracting Officer.

H. 15 RIGHTS OF WAY/LAND EASEMENTS

The contractor shall obtain necessary rights of way, land easements, and any other land agreement necessary to fulfill the requirements of this contract. These agreements shall be made in the name of the contractor with irrevocable permission to the Government to use the obtained right as long as the contractor has title to it. The contractor shall not use the acquired rights if the Government is exercising its permission to use them.

H. 16 PUBLICITY AND PUBLICATIONS

It is agreed that the contractor shall acknowledge EPA support whenever the work funded in whole or in part by this contract is publicized in any news media. However, no site specific work of information shall be publicized without first obtaining the written approval of the Contracting Officer.

H.17 ANALYTICAL SERVICES

The contractor will be provided analytical services from the EPA Contract Laboratory Program. The Contract Laboratory Program can provide a wide spectrum of analytical capability for samples collected as part of an investigation of a hazardous substance site. Quality assurance is an integral part of the overall program. A guide entitled "Procedures for utilizing the Contract Laboratory Program" is available.

H.18 PROHIBITION OF FUTURE CONTRACTING

In addition to Clause H.3, due to the scope and nature of this procurement and sensitive nature of enforcement actions, the prime contractor and all designated team member subcontractors shall observe the following restrictions on future hazardous waste sites and other contracting for the duration of the contract. Further, the prime contractor shall include clauses similar to clauses 1 through 4 below in its subcontracts with the designated subcontractors.

1) The prime contractor and all designated subcontractors will be ineligible to compete for remedial planning and implementation contracts offered by States which result from a Superfund Cooperative Agreement without the prior written approval of the Contracting Officer.

2) The prime contractor and all designated subcontractors will be ineligible to compete for remedial planning and implementation projects offered by the private sector for sites which result from a CERCLA of RCRA consent decree, agreements by negotiation, administrative orders, other proposals agreed upon by a Defendant or Respondent, or court order, without the prior written approval of the Contracting Officer.

3) The prime contractor and all designated subcontractors will be ineligible to compete for remedial planning and implementation projects offered by the private sector or otherwise provide any work or consulting services for a Defendant or Respondent for sites where EPA has initiated or anticipates enforcement actions without the prior written approval of the Contracting Officer.

4) The prime contractor and all designated subcontractors will be ineligible to compete for initial remedial action projects for which the contractor has developed the solicitation package.

The prime contractor's contract with any undesignated Subcontractor, i.e. any subcontractor not designated in the contract, shall prohibit:

1) any undesignated subcontractor from entering into any agreement with any person specifically identified by the agency at the time the subcontract is entered into, or with any person who is a party in the enforcement action for which the undesignated

subcontractor is hired by the prime contractor, whether or not it relates to the enforcement action, without the prior written approval of the prime contractor. The prime contractor shall not grant such approval without authorization of the Contracting Officer. Furthermore, the undesignated subcontractor shall provide notification to the prime contractor, who will in turn notify the Contracting Officer, prior to any agreement between the undesignated subcontractor and his clients to perform any remedial planning or implementation work at a National Priorty List site.

2) any undesignated subcontractor from disclosing any confidential information obtained in the performance of the contract. Any presentation by the undesignated subcontractor of any statistical or analytical material or reports based on information obtained from the studies covered by the contract will be subject to review by the Government's project officer before publication or dissemination in order to determine whether safeguards of privacy have been observed.

Nothing contained in this clause entitled, "Prohibition of Future Contracting", shall be construed to create a privity of contract between the EPA and any subcontractor or consultant.

H.19 FUTURE EXPERT CONSULTING SERVICES

It is recognized that, subsequent to the performance period of this contract, the need may arise to provide expert testimony during hearings and/or court proceedings involving site specific activities or other matters, with regard to which personel provided by the contrator under this contract (including subcontractor personnel) would have gained expertise as a result of tasks performed under this contrct. Therefore, the contractor agrees to make available expert consulting services in support of such future proceedings, and to enter into intent agreements as necessary with subcontractors to ensure the availability of subcontractor personnel, provided under this contract, to provide expert consulting services. Agreement to provide such services in the future serves as a notice of intent only. Such services are not purchased hereby and will be obtained through a separate contractual agreement.

H.20 NOTIFICATION OF CONFLICTS OF INTEREST REGARDING PERSONNEL

In addition to the requirements of the contract clause entitled "Organizational Conflicts of Interest", the following provisions with regard to individual personnel performing under this contract shall apply for the duration of the contract.

The contractor agrees to nofify the Contracting Officer of any actual, apparent, or potential conflict of interest with regard to any individual. Notification of any conflict of interest shall include both the types of concerns in FAR 9.5 regarding organizational conflicts of interest (as defined in the above-referenced contract article) and personal conflicts of interest.

If personal conflict of interest appears to exist, the individual shall be disqualified from taking part in any way in the performance of the assigned work which created the conflict of interest situation.

H.21 PROJECT EMPLOYEE CONFIDENTIALITY AGREEMENT

The contractor agrees to obtain confidentiality agreements from all personnel working on requirements under this contract including subcontractors and consultants. Such agreements shall contain provisions which stipulate that each individual agrees not to disclose either in whole or in part to any entity external to EPA, DOJ, or the contractor any technical data provided by the Government or generated by the contractor, any site specific cost information, or any enforcement strategy without first obtaining the written permission of the Contracting Officer. Such agreements shall be effective for a period of three (3) years commencing with the effective date of the contract.

H.22 SITE-SPECIFIC BILLING AND INVOICING REQUIREMENTS

GENERAL REQUIREMENTS

The Contractor shall provide an invoice which identifies the costs incurred at each site with an EPA site/spill identifier (S/S ID). The invoice will include the following information:

- o A cost element summary which summarizes all costs being being invoiced by cost element, such as labor, travel, equipment, other direct, subcontractor and overhead or indirect costs, as identified elsewhere in the contract.
- o A site-specific attachment, on which the invoiced costs are broken down by:
  - Each site with an EPA S/S ID
  - All other sites, i.e., those without an EPA S/S ID, on one line item per Region
  - Program management
  - Base and award fees
  - Non-site activities, identified separately such as training of State personnel or coordination of Regional activities
  - Non-Superfund costs, as applicable, on one line item

The required format of the site-specific attachment is shown in Attachment C, Exhibit 2. The contractor will be responsible for completing only a portion of the data, as described below. The sum of the detailed costs on the attachment must equal the total amount invoiced as shown on the cost element summary.

Contractors shall also allocate their program management costs, fees and certain non-site activity costs to sites on a fiscal year basis.

Questions regarding these requirements should be referred to the Chief of the Superfund Accounting Branch, Financial Management Division at (202) 382-2268.

INVOICE REQUIREMENTS

Contractors will submit four (4) copies of the invoice, one to the Project Officer and three (the original and two copies) to the Financial Management Office at Research Triangle Park. The site-specific attachments to the invoice should be submitted on computer printout size paper and should be completed as follows (See Attachment C, Exhibit 2):

Costs for Sites with EPA S/S IDs

The contractor will determine which of the sites for which costs were incurred have been assigned an EPA site-spill identifier (S/S ID). Contractors will need to establish access to EPA's Superfund Site ID System (SSIDS) through EPA's electronic mail system in order to identify those sites on a monthly basis. Access instructions are available from the Funds Control Center (FCC), Office of Emergency and Remedial Response. The contractor may opt to use a hard copy list of S/S IDs available from the FCC on the 10th working day of each month. The FCC phone number is (202) 475-8101.

Total invoiced costs should be reported for each site with an S/S ID, even if the S/S ID was assigned during the billing period. For each site with an EPA S/S ID, for which costs were incurred during the billing period, the contractor will complete the following elements, one line per site, sorted by Region, on the site-specific attachment: (See Attachment C, Exhibit 2)

- o TDD or Work Assignment Number(s) - under which the site work was performed. This is an optional field.
- o Region - the two digit Regional number
- o Site Number - the two digit EPA S/S ID
- o Site Name - two letter state code, followed by first twelve letters of site name as it appears on the SSIDS or hard copy list
- o Object Class Code - always 2535. If there is more than one amount per site, as in the case of multiple TDDs, this code should appear only on the line of the site total.
- o Amount - the total amount of direct and indirect costs incurred at the site during the billing period. This does not include the allocated amount of program management

costs, fees and allocable non-site costs.

- Cumulative Costs - the total direct and indirect costs incurred at the site FROM THE MONTH THE EPA S/S ID WAS ASSIGNED to date. This does not include the allocated amount of program management costs, fees and allocable non-site costs. Cumulative costs prior to S/S ID assignment will continue to be included in the section, "Costs for Sites Without EPA S/S IDs."

- Subtotal - the total billing period amount for all sites with EPA S/S IDs listed.

Sites for which no costs were incurred during the billing period should not appear on the site-specific attachment. All credits to sites, i.e., negative amounts, should be listed on a separate page, using the same format described above.

Costs for Sites Without EPA S/S IDs

Contractors may perform work at sites which do not have an EPA S/S ID at the time the work was performed. Costs for this work should be reported together, one line per Region, under the heading "Costs for Sites Without EPA S/S IDs." The contractor will complete the following data:

- Region - the two digit Regional number

- Object Class Code - always 2535

- Amount - the total amount of direct and indirect costs incurred at these sites during the biling period. This does not include the allocated amount of program management costs, fees and allocable non-site costs.

- Cumulative costs - the total direct and indirect costs incurred at these sites FROM CONTRACT INCEPTION to date. This does not include the allocated amount of program management costs, fees and allocable non-site costs.

- Subtotal - the total billing period amount for all sites without EPA S/S IDs.

Program Management Costs

Program management costs will be billed and paid on a periodic basis, as specified elsewhere in the contract. The contractor should report these costs on one line of the site-specific attachment identified as "Program Management Costs," and complete the following elements:

- TDD or WA number - if applicable. This field is optional

- o Object Class Code - always 2535

- o Amount - the total program management costs incurred during the invoice period

- o Cumulative costs - the total program management costs incurred from the last time the allocation was peformed to date.

Fees

Base and award fees will be invoiced and paid on a periodic basis as specified elsewhere in the contract. The contractor should report these costs on one line of the back-up invoice identified as "Fees," and complete the following elements:

- o Object Class Code - always 2535

- o Amount - the total fees billed for the billing period.

- o Cumulative costs - the total fees incurred from the last time the allocation was performed to date.

Award fees which are attributable to a specific site should be reported on a separate line item for that site rather other thant in the "Fees" line item amount.

Non-site Activities

Contractors may engage in activities which cannot be related to specific sites, such as training of state personnel or calibrating EPA equipment. Each of these activities must be identified separately under "Non-Site Activities" on the site specific invoice back-up, with the contractor completing the following for each:

- o Activity name

- o TDD or Work Assignment Number - optional

- o Object Class Code - always 2535

- o Amount - current billing period charges

- o Cumulative costs - the total costs incurred from contract inception to date or from the last time the allocation was performed to date for those activities whose costs have been allocated to sites previously.

Non-Superfund costs

All non-superfund costs invoiced, including applicable program management costs and fees, should be reported by appropriation on the site-specific attachment, with the billing period and cumulative amounts invoiced.

Total Invoice Amount

This amount is the total of the costs listed in the AMount column, i.e., the total charges for this billing period. This must equal the total amount on the invoice itself. There should be no total for the cumulative costs column.

ANNUAL ALLOCATION REQUIREMENTS

Annually, on a Federal fiscal year basis, contractors will allocate Superfund program management costs, fixed and award fees and some non-site activitiy costs to the sites and activities for which costs were incurred during the preceding year. The costs to be included are the sum of the 12 invoices paid for work performed during the fiscal year, i.e., October - September. The contractor will submit an allocation report to EPA using two standard report formats, Attachment C, Exhibits 3 and 4. Two copies of the report (original plus one) are due to the Project Officer by December 31 following the end of the applicable fiscal year, e.g., reports are due December 31, 1986 for the fiscal year 1986 allocation. When the contract performance period ends at other than the end of the fiscal year, the report for the last year of the contract is due 90 days following contract expiration.

Before beginning the allocation process, the contractor must determine, along with the EPA Project Officer, which of the non-site activity costs should be allocated to sites. In general, activities which support site clean-up should be considered as allocable; their costs will be reported as "allocable non-site activities." Costs for activities which do not support site clean-up will be reported as "non-allocable non-site activities."

Once the non-site activities have been identified as allocable and non-allocable, the contractor should follow these steps to perform and report the annual allocation:

1. Complete the first page of the report, "Annual Summary of Non-Site Superfund Costs" (See Attachment C, Exhibit 3. This report should break out all of the non-site Superfund costs PAID to the contractor during the fiscal year, that is, all of the costs which were not reported under "Costs for Sites With EPA S/S IDs" and " Costs for Sites Without EPA S/S IDs on the site-specific invoice attachments. These costs should be broken out by the following categories:

   - Program Management
   - Base and Award Fees (excluding award fees which have been assigned to specific sites during the year, if applicable)
   - Allocable No-Site Activities (see above explanation)
     - one line per acitivity
   - Non-Allocable Non-Site Activites (see above explanation) - one line per activity

The sum of the first three categories equals the Total Allocable Superfund Costs which are to be allocated across sites and activities. The sum of all four categories must equal the total non-site Superfund costs paid to the contractor during the fiscal year.

2. Allocate program management costs and base and award fees (administration costs) to all sites (with and without EPA IDs) and non-site activities for which costs were paid for work performed during the year, based on the costs paid for each site or activity as a percentage of total non-administrative costs. Attachment C, Exhibit 1, gives an example of how this allocation should be performed.

Using the numbers in this exhibit, determine the administration costs to be allocated to Site A as follows:

$$\frac{\text{SITE A}}{\text{TOTAL NON-ADMINISTRATION COSTS}} \times \text{TOTAL ADMINISTRATION COSTS}$$

$$\frac{3{,}000}{26{,}200} \times 3{,}300 = 377.86 \text{ ADMINISTRATION COSTS ALLOCABLE TO SITE A}$$

3. Allocate the allocable non-site activity costs and the administration costs which have been allocated to them, to all sites, with and without EPA IDs, based on the costs paid for work performed for each site and Region (for sites without IDs) as a percentage of total site costs (excluding administration and non-site activites costs). Using the numbers in Attachment C, Exhibit 1, determine the allocable non-site activity cost to be allocated to Site A as follows:

$$\frac{\text{SITE A COST}}{\text{TOTAL SITE COSTS}} \times \text{ALLOCABLE NON-SITE ACTIVITIES COST}$$

$$\frac{3{,}000}{21{,}000} \times 1{,}351.15 = 193.02$$

NOTE: The allocable non-site activity cost ($1,351.15) is the sum of the annual cost plus the allocated administrative costs.

4. Determine the total amount allocated to each site and Region by adding the two allocated amounts. In the exhibit, $377.86 of administration costs and $193.02 of allocable non-site activity costs have been allocated to Site A, for a total of $570.88 of allocated costs.

5. Complete the Annual Allocation of Allocable Superfund Costs (Exhibit 4). Once the allocation has been made to all sites and the appropriate activities, the contractor should complete the

second portion of the report, "Annual Allocation of Allocable Superfund Costs." (See Exhibit). For each site with an EPA S/S ID to which Superfund costs have been allocated, the contractor should complete the following elements:

- Region
- State (two character code)
- Site Name
- EPA S/S ID
- Amount Allocated - for the fiscal year

The contractor should also complete the Amount Allocated column for the Sites Without EPA S/S IDs, by Region, and for each non-allocable non-site activity, as applicable. The total amount of the costs allocated to the sites and certain non-site activities on this report (Exhibit 4) must equal the Total Allocable Costs from the Annual Summary (Exhibit 3).

The contractor should also supply with the annual report an explanation of the methodology used to arrive at the allocable costs.

INVOICES FOLLOWING THE ANNUAL ALLOCATION

Once the allocation of program management costs, fees and allocable non-site activities has been made, the amount allocated should be reflected on all subsequent invoices. That is, on the back-up pages of the first invoice submitted following the submission of the annual report:

- The amount of management costs, fees and allocable non-site activities allocated to each site should appear in the cumulative column for each site as a separate line item for that site. The same is true for costs and fees allocated to sites without EPA S/S IDs and to non-allocable, non-site activities.

- The amount of costs and fees allocated should also appear as a negative number in the cumulative columns for the Program Management, Fees, and Allocable Non-Site Activity line items, to offset the costs/fees distributed and shown by site.

Exhibit 5 illustrates the allocation information which should be shown on the site specific invoice attachment following the annual allocation.

PART II - CONTRACT CLAUSES

SECTION I - CONTRACT CLAUSES

I.1 CLAUSES INCORPORATED BY REFERENCE--COST-REIMBURSEMENT SERVICES CONTRACT (FAR 52.252-2) (APR 1984)

This contract incorporates the following clauses by reference. The clauses that are applicable to this contract are checked with an "X" in the left column. These clauses have the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Clauses from the Federal Acquisition Regulation (48 CFR Chapter 1) are identified with the prefix "52" in the clause number.

	CLAUSE NUMBER	TITLE AND DATE
X	52. 202-001	Definitions (APR 1984).
X	52. 203-001	Officials Not to Benefit (APR 1984).
X	52. 203-003	Gratuities (APR 1984).
X	52. 203-005	Covenant Against Contingent Fees (APR 1984).
	52. 204-001	Approval of Contract (APR 1984).
	52. 204-002	Security Requirements (APR 1984).
	52. 207-003	Right of First Refusal of Employment (APR 1984).
	52. 210-005	New Material (APR 1984).
	52. 210-007	Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property (APR 1984).
X	52. 212-013	Stop-Work Order (APR 1984).
X	52. 212-013	Stop-Work Order ALTERNATE I (APR 1984).
X	52. 215-001	Examination of Records by Comptroller General (APR 1984).
X	52. 215-002	Audit--Negotiation (APR 1984).
	52. 215-021	Changes or Additions to Make-or-Buy Program (APR 1984).
	52. 215-021	Changes or Additions to Make-or-Buy Program ALTERNATE II (APR 1984).
X	52. 215-022	Price Reduction for Defective Cost or Pricing Data (APR 1984).
	52. 215-023	Price Reduction for Defective Cost or Pricing Data--Modifications (APR 1984).
X	52. 215-024	Subcontractor Cost or Pricing Data (APR 1984).
	52. 215-025	Subcontractor Cost or Pricing Data--Modifications (APR 1984).
X	52. 215-026	Integrity of Unit Prices (JUN 1985).
	52. 215-030	Facilities Capital Cost of Money (APR 1984).
X	52. 215-031	Waiver of Facilities Capital Cost of Money (APR 1984).
	52. 215-032	Certification of Commercial Pricing (JUN 1985).
X	52. 216-007	Allowable Cost and Payment (APR 1984).

	CLAUSE NUMBER	TITLE AND DATE
X	52. 215-033	Order of Precedence (JAN 1986).
___	52. 216-008	Fixed-Fee (APR 1984).
___	52. 216-011	Cost Contract--No Fee (APR 1984).
___	52. 216-012	Cost-Sharing Contract--No Fee (APR 1984).
___	52. 216-026	Payments of Allowable Costs Before Definitization (APR 1984).
___	52. 217-008	Option to Extend Services (APR 1984).
X	52. 219-008	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (JUN 1985).
X	52. 219-009	Small Business and Small Disadvantaged Business Subcontracting Plan (APR 1984).
X	52. 219-013	Utilization of Women-Owned Small Businesses (APR 1984).
X	52. 220-003	Utilization of Labor Surplus Area Concerns (APR 1984).
X	52. 220-004	Labor Surplus Area Subcontracting Program (APR 1984).
___	52. 222-001	Notice to the Government of Labor Disputes (APR 1984).
X	52. 222-003	Convict Labor (APR 1984).
___	52. 222-020	Walsh-Healey Public Contracts Act (APR 1984)
X	52. 222-026	Equal Opportunity (APR 1984).
___	52. 222-028	Equal Opportunity Preaward Clearance of Subcontracts (APR 1984).
X	52. 222-035	Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984).
X	52. 222-036	Affirmative Action for Handicapped Workers (APR 1984).
___	52. 222-041	Service Contract Act of 1965 (APR 1984).
X	52. 223-002	Clean Air and Water (APR 1984).
X	52. 223-003	Hazardous Material Identification and Material Safety Data (APR 1984).
___	52. 224-001	Privacy Act Notification (APR 1984).
___	52. 224-002	Privacy Act (APR 1984).
X	52. 227-001	Authorization and Consent (APR 1984).
X	52. 227-002	Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984).
___	52. 227-008	Reporting of Royalties (Foreign) (APR 1984).
___	52. 227-010	Filing of Patent Applications - Classified Subject Matter (APR 1984).
___	52. 228-002	Additional Bond Security (APR 1984).
	52. 228-007	Insurance--Liability to Third Persons (APR 1984).

	CLAUSE NUMBER	TITLE AND DATE
___	52. 228-007	Insurance--Liability to Third Persons ALTERNATE I (APR 1984).
___	52. 228-007	Insurance--Liability to Third Persons ALTERNATE II (APR 1984).
___	52. 230-003	Cost Accounting Standards (APR 1984).
___	52. 230-004	Administration of Cost Accounting Standards (APR 1984).
___	52. 230-005	Disclosure and Consistence of Cost Accounting Practices (APR 1984).
X	52. 232-009	Limitation on Withholding of Payments (APR 1984).
X	52. 232-017	Interest (APR 1984).
___	52. 232-018	Availability of Funds (APR 1984).
X	52. 232-020	Limitation of Cost (APR 1984).
X	52. 232-022	Limitation of Funds (APR 1984).
X	52. 232-023	Assignment of Claims (APR 1984).
___	52. 232-023	Assignment of Claims ALTERNATE I (APR 1984)
___	52. 232-024	Prohibition of Assignment of Claims (APR 1984).
X	52. 233-001	Disputes (APR 1984)
X	52. 233-001	Disputes ALTERNATE I (APR 1984)
X	52. 233-003	Protest After Award ALTERNATE I (JUNE 1985)
___	52. 237-002	Protection of Government Buildings, Equipment, and Vegetation (APR 1984).
X	52. 237-003	Continuity of Services (APR 1984).
X	52. 242-001	Notice of Intent to Disallow Costs (APR 1984).
___	52. 242-010	F.o.b. Origin--Government Bills of Lading or Prepaid Postage (APR 1984).
___	52. 242-011	F.o.b. Origin--Government Bills of Lading or Indicia Mail (APR 1984).
X	52. 243-002	Changes--Cost-Reimbursement ALTERNATE I (APR 1984).
___	52. 243-002	Changes--Cost-Reimbursement ALTERNATE II (APR 1984).
___	52. 243-006	Change Order Accounting (APR 1984).
X	52. 244-002	Subcontracts (Cost-Reimbursement and Letter Contracts) (JUL 1985).
X	52. 244-005	Competition in Subcontracting (APR 1984).
X	52. 245-001	Property Records (APR 1984).
X	52. 245-005	Government Property (Cost-Reimbursement, Time and Materials, or Labor Hour Contracts) (APR 1984).

	CLAUSE NUMBER	TITLE AND DATE
___	52. 245-018	Special Test Equipment (APR 1984).
X	52. 245-019	Government Property Furnished "As Is" (APR 1984).
___	52. 246-003	Inspection of Supplies--Cost-Reimbursement (APR 1984).
X	52. 246-005	Inspection of Services--Cost-Reimbursement (APR 1984).
X	52. 246-025	Limitation of Liability--Services (APR 1984).
X	52. 249-006	Termination (Cost-Reimbursement) (APR 1984).
___	52. 249-006	Termination (Cost Reimbursement) ALTERNATE II (APR 1984).
X	52. 249-014	Excusable Delays (APR 1984).
X	52. 251-001	Government Supply Sources (APR 1984).
___	52. 251-002	Interagency Motor Pool Vehicles and Related Services (APR 1984).

I.2 PAYMENT FOR OVERTIME PREMIUMS (FAR 52.222-2) (APR 1984)

(a) The use of overtime is authorized under this contract if the overtime premium cost does not exceed $0. In addition to this dollar ceiling, overtime is permitted only for work--

(1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or

(4) That will result in lower overall costs to the Government.

(b) Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall--

(1) Identify the work unit; e.g., department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime;

(2) Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;

(3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and

(4) Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel.

I.3 ALTERATIONS TO SPECIAL PROVISIONS

Special Provision H.6, "Insurance--Liability to Third Persons--Commercial Organizations" is hereby altered as follows:

a. Add the following to Paragraph (e):

If the insurance identified in Paragraph (b) is not available at a reasonable cost, as defined by the Contracting Officer, the Government will hold harmless and indemnify the contractor against claims to the extent that such claims exceed $100,000.00. The contractor shall not be reimbursed for liabilities (and the expenses incidental to such liabilities) that result from gross negligence, willful misconduct, or lack of good faith in the part of any of the contractor's directors, manager's staff, representatives or employees.

b. Add the following as Paragraph (k):

(k) This article will be modified by mutual agreement of the parties within 180 days of the enactment of the reauthorization of the Comprehensive and Liability Act (CERCLA) to reflect that reauthorization. If, at the end of the 180-day period, EPA has not finally determined its policy regarding insurance and indemnification, the parties agree to renegotiate this clause, as modified, to reflect EPA's ultimate determination of its insurance and indemnification policy.

PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

SECTION J -- LIST OF ATTACHMENTS

J.1 LIST OF ATTACHMENTS (EP 52.252-100) (APR 1984)

Attachment	Title	Pages
A	Statement of Work	28
B	Small Business/Small Disadvantaged Business Subcontracting Plan	5
C	Site Specific Invoice Exhibits (Article H.22)	5
D	Reports of Work	5
E	Award Fee Plan	18

PART IV - REPRESENTATIONS AND INSTRUCTIONS

SECTION K - REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

The Representations, Certifications, and Other Statements of Offerors completed by the contractor as part of the response to the RFP WA86-J001 are incorporated into this contract by reference.

ATTACHMENT A
Page 1 of 1

Statement of Work

I. Introduction

This contract will provide the support described in the following Statement of Work for the following Regions which comprize Zone I:

Zone I

Region 1:

Environmental Protection Agency
John F. Kennedy Federal Building
Room 2203
Boston, MA 02203

Region 2:

Environmental Protection Agency
26 Federal Plaza
Room 900
New York, NY 10278

Region 3:

Environmental Protection Agency
841 Chestnut Street
Philadelphia, PA 19107

Region 4:

Environmental Protection Agency
345 Courtland Street, N.E.
Atlanta, GA 30365

II. Background

A. CERCLA

Uncontrolled hazardous waste facilities vary considerably in type and size, nature and amount of hazardous substances contained, and nature and severity of hazards presented. They may encompass landfills containing loose or containerized waste, open dumps of barrels and drums, contaminated soils and sediments, and contaminated ground water. The hazardous substances may include organic waste residues and solvents, waste oil, pesticides, heavy metals, inorganic acids, alkalis, and salts, as well as explosive, flammable, radioactive, carcinogenic, and infectious materials. Common hazards may involve contamination of air and soil and of ground water and surface water supplies, dispersal of noxious fumes, explosions and fires. Resultant damages may take the form of acute toxic effects, chronic effects such as carcinogenicity, mutagenicity, and teratogenicity, destruction of biota and wildlife habitats, degradation of natural resources and recreational or scenic amenities, and loss or devaluation of property.

Of the significantly large number of hazardous waste sites posing a threat to public health and the environment, the EPA established a National Priorities List of the most hazardous sites. This list is updated annually and may eventually exceed 1,000. The authority for such action is the legislation entitled, The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510), more commonly referred to as "Superfund" or CERCLA. This Act established a 5-year emergency and remedial response tax whose purpose is to establish a thorough, deliberate process for investigating and cleaning up these sites. EPA, either directly or through cooperative agreement with States, will design cleanup plans for listed sites. EPA may seek cleanup by the responsible parties, thus conserving the Fund for cleanup where no viable responsible party can be found. Enforcement investigations will include identification of the responsible parties, for the purpose of seeking cost recovery in those instances that are CERCLA-funded.

This contract will not be limited to sites on the National Priority List, and also will be used to develop enforcement actions on other sites at which there is a release or threat of release, or which may present an imminent and substantial endangerment. Enforcement at these sites is authorized by the imminent hazard and emergency response provisions of Superfund. This contract will not duplicate efforts of the Office of Emergency and Remedial Response (OERR) contracts. This is strictly and primarily an enforcement effort for EPA to provide support for compliance actions and recovering clean-up funds from responsible parties.

B. RCRA

The Environmental Protection Agency (EPA) has responsibility for assuring compliance with the Resource Conservation and Recovery Act (RCRA). Contract support is needed to supplement EPA resources (Regional, State and Headquarters) to implement the RCRA program and to help provide necessary support/oversight to States. In addition, the RCRA Amendments of 1984 have increased the scope of EPA activities to include small quantity generators (>100 kg/month), underground storage tanks. and an increased regulation of existing or planned hazardous waste handling facilities.

The facilities regulated under RCRA vary considerably in the nature of their involvement in hazardous waste activities. They encompass large waste disposal landfills used for loose or containerized wastes, drums, and contaminated soils. Other regulated facilities may have a very limited involvement in the RCRA program and may be regulated by the presence/usage of an underground storage at the facility. The hazardous substances may include organic waste residues and solvents, waste oil, pesticides, heavy metals, inorganic acids, alkalis, and inorganic salts, as well as explosive, flammable, radioactive, carcinogenic, and infectious materials. Potential hazards present at RCRA facilities are as varied as the materials present and the manner of handling. Common hazards may involve contamination of air, soil, ground water, drinking water supplies, and surface water supplies, dispersal of noxous fumes, explosions and fires.

Work will include performing inspections of interim status and permitted facilities, and providing support for compliance and enforcement actions including but not limited to administrative orders under sections 3008, 3013, and 7003 of the Resource Conservation and Recovery Act, P.L.94-580, October 21, 1976 and "The Hazardous and Solid Waste Amendments of 1984," P.L. 98-616, November 8, 1984.

The purpose of this contract is to assist the EPA in conducting inspections, reviewing and in some cases designing corrective actions, and providing case support for negotiations with responsible parties or for litigation referrals to the Department of Justice. Engineering and scientific capabilities are needed for ground water studies, review of owner/operator technical work products and in some cases, assist in the development of the work plan for owner/ operator implementation, corrective action development, assessment of degree of endangerment, and assistance in the pursuit of administrative and judicial orders.

Contractor: CDM
Contr. No.: 68-01-7331
Ends : Sept. 1987
mount: $57M

C. Distribution of Work

Provided in this section is an estimate of the distribution of the various categories of work identified in the Statement of Work. This estimate is provided for informational purposes only, and, in no way restricts or limits the Government's ability to distribute the work as required during contract performance. The following is the Government's current, best estimate of the work load distribution anticipated for this effort:

	Work Area	Percentage
1.	RCRA Compliance Activities	18
2.	Responsible Party Searches	4
3.	Enforcement Support Services	3
4.	Health/Environmental Assessments	4
5.	Design of Enforcement Studies	4
6.	Enforcement Feasibility Study	16
7.	Special Laboratory Services	4
8.	Review of Responsible Party Plans	5
9.	Expert Consultants/Witnesses	17
10.	Data Management	6
11.	Quality Assurance (included in all tasks)	-
12.	Cost Recovery	6
13.	Field Work	2
14.	Policy and Program Support	4
15.	Oversight of Responsible Party Actions	5
16.	Community Relations	1
17.	Training	1
	TOTAL	100

III. Statement of Work

Individual work assignments under this contract will generally fall within the following categories. These are descriptions of the OWPE compliance and enforcement activities. The following descriptions of the Statement of Work contain references to documents as Attachments. These documents are provided as Attachments to the RFP (see Section J).

A. RCRA Activities

Preamble: The contractor shall provide personnel to conduct inspections and provide technical reviews, analyses and evaluations of RCRA information and documents, including ground-water monitoring systems and corrective actions.

1. The Contractor shall furnish the personnel, services, materials and equipment required to conduct inspections to assist EPA in determining compliance with RCRA and including releases from facility unit. The Contractor shall conduct inspections and evaluations of groundwater monitoring systems. Such inspections shall be performed in accordance with the RCRA Technical Enforcement Guidance Documents (1985) and other Agency guidance. In addition, comprehensive inspections of incinerators, land disposal facilities and underground storage tanks may be required. The contractor shall inspect notifiers, treatment, storage, and disposal facilities and generator and transporter facilities. If there are questions whether hazardous wastes are present, inspections at Subtitle D facilities may also be required. Inspection procedures will be determined, in part, by the scope of the project. EPA categorizes inspections as the following types:

   a. Record Review -- an examination of facility records of tests and analyses performed, self-monitoring conducted, sampling and waste characterization analyses performed, amounts and types of waste handled, manifests for wastes transported from or to the site, closure plans, etc. The main purpose is to determine compliance with the Agency's record keeping and reporting requirements, and records of compliance with regulations such as financial assurances, closure/post-closure plans, and guarantees and ground-water monitoring plans. The record review may address evidence of incompatibility of wastes.

   b. Cursory Inspection -- a visual inspection with documentation (grab samples may be taken). This is a mechanism for dealing with a specific aspect for a restraining order or for identifying a facility that failed to notify as required.

c. Preliminary Survey -- an initial visual inspection. During the inspection, sampling needs and locations may be identified and a general characterization of the site may be determined.

d. Comprehensive Inspection -- a thorough visual inspection encompassing all areas of a facility's operations. This inspection may include sampling. This inspection is designed to support enforcement actions/case development. This inspection often is preceded by a preliminary survey.

e. Site investigation - This investigation includes a general overview of a facility, including solid waste management units, and may include sampling. Such investigations are described in the preliminary assessment/site investigation guidance. (Attachment 1)

f. Sampling Inspection -- an inspection consisting primarily of taking ground water, soil and/or surface water samples. Samples may also be collected from impoundments, drums or other containers, and where appropriate from the facility as a split sample. This inspection may be triggered by a cursory inspection or preliminary survey in response to indications of potential violations. It is used mostly to support enforcement actions, for actions under the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984.

i. Development of Sampling Plan (Plan)

If samples are to be taken, the contractor shall develop and submit to the EPA Project Officer a sampling plan which considers those characteristics and wastes representative of the type of hazardous waste site under RCRA investigation. In preparation of the Plan, refer to the RCRA Inspection Manual, Section V (F) (attachment 1). For information concerning chain-of-custody considerations, sampling equipment and containers, and EPA required quality control and quality assurance programs, refer to Chapter 4, "Packaging, Marking, Labeling and Shipping of Hazardous Waste Site Samples" in "EPA Safety Manual for Hazardous Waste Site Investigations", September, 1979 (attachment 2) and "Guidelines and Specifications for Preparing Quality Assurance Program Plans" QAMS-004/80, September 20, 1980 (attachment 3). Also, refer to

Attachment 4, "NEIC Policies and Procedures", Chain-of-Custody Procedures and Document Control, NEIC, 1985, Denver, Colorado.

ii. Sample Collection

For each sampling plan identified in each work assignment issued, the contractor shall:

- Develop and submit to the EPA Project Officer for approval, a Field Quality Assurance Program which insures the safety of all members of the sampling crew. A general safety plan should be part of the overall Quality Assurance Program. A site specific safety plan should be addressed in the work plan. Refer to the "EPA Safety Manual for Hazardous Waste Site Investigations" (attachment 2) and to Chapter 10 in the "Enforcement Considerations" manual, (attachment 4) and write the plan in conformance with these rigorous safety requirements. Problem areas unique to a site must be discussed. The Contractor shall be held responsible for compliance with current Department of Transportation regulations (attachment 5) pertaining to packaging, labeling and shipping of hazardous waste samples.
- Perform the effort described in the sampling plan(s) identified in each work assignment according to applicable EPA Protocols (including chain-of-custody) and in accordance with the EPA-approved Quality Assurance Program and Project Plan, and the EPA Contract Laboratory Program (attachment 6).

iii. Sampling Services

The Contractor shall furnish the personnel, services, materials and equipment needed to plan and execute site wide sampling investigation to support enforcement actions or potential actions. The sampling investigations, because of the variety of facilities and hazardous constituents present, the Contractor must be prepared to collect samples from all media, air, soil, waters, and ground water. In addition, samples may be required from landfills, land farms, underground tanks, drums, impoundments, waste piles or other vessels commonly used for waste containment.

The sampling program may include, as directed, but not be limited to the sampling for the analysis of priority pollutants, organics and metals, bio-toxicity, RCRA characteristics, hazardous constituents, and EP toxicity. Sampling protocols shall be consistent with procedures established by EPA and shall include chain-of-custody procedures to assure the eventual use of the analytical results as evidence to support an enforcement action. Special sampling programs may be requested by EPA to support investigations. All activities must be conducted as per EPA Safety Standards (attachment 7). Sampling plans must be submitted to EPA, verbally and in writing for approval.

The contractor shall record all details of the sampling collection efforts (including the specifics of where, when and how the samples were collected), any unusual situation which might affect the validity of the representative samples, and any concurrent sampling efforts underway at the sites. The contractor shall insure the preservation, integrity, and transportation of all samples from the field to the testing laboratories. Toward this analytical end the contractor shall employ procedures which conform to EPA approved protocols including storage considerations, chain-of-custody, and correct completion of sample information forms, sample labels, etc.

Quality Assurance checks will be conducted at least semi-annually by EPA through the use of control-check samples. These control-check samples will be labeled similarly to the regular field samples, and will contain one or more of the substances detectable using the analytical methodology being employed. Contaminants to be measured may include, but are not limited to, the chemicals listed in 40 CFR 261.33(e) and (f) (attachment 8) and the chemicals listed in Appendix VIII of 40 CFR 261 (Attachment 9).

The inspections in the aforementioned categories are by no means rigid. There are variations under each type as well as combinations of them. They have been named for descriptive purposes. The decision for determining how extensive or detailed the inspection needs to be for each case will be made by EPA. It is also up to EPA to make enforcement recommendations based on the technical information the Contractor gathers. Under these categories, compliance evaluation inspections would include record reviews, cursory inspections, and preliminary surveys. Compliance sampling inspections would include comprehensive inspections and sampling inspections. If the inspection is conducted under a judicial warrant, the inspection scope will be limited to the restrictions of the warrant.

2. Technical Review, Analysis, Evaluation and Support

The contractor shall furnish personnel necessary to perform review, analysis and evaluation of the compliance posture of, and the potential or extent of releases from RCRA facilities, including solid waste management units. The contractor shall also furnish personnel to support the preparation of technical guidance, policy and technical assistance programs on issues arising from the implementation of the RCRA enforcement program. This technical support differs from 1. above in that it is predominantly a headquarters effort.

a. RCRA Facility Plan Reviews

The contractor shall furnish the personnel necessary to perform indepth review and analysis of:

- ground water monitoring systems;
- ground water sampling and analysis procedures
- ground water sampling and analysis plans;
- waivers to ground water monitoring;
- ground water quality assessment outlines/plans;
- closure/post-closure plans;
- design and operation of RCRA facilities including incinerators and storage facilities.

b. Hydrogeologic Assessment and Assessment of Releases

The contractor shall provide personnel and equipment necessary to perform ground water monitoring, testing, analysis, and reporting. This activity may require drilling, coring, installation of wells and piezometers and application of geophysical techniques. The contractor shall provide personnel and equipment to undertake activities for assessing releases or constituents of hazardous waste. The contractor shall compile generated data and submit a report which characterizes the ground water in the area of concern.

c. Evaluation of Compliance

The contractor shall provide personnel necessary to summarize and evaluate the compliance status of members of the RCRA regulated community. These evaluations will be used to support such activity as the development of enforcement guidance or the development of strategies to direct resources at high priority enforcement problems.

d. Enforcement Guidance

The contractor shall provide personnel necessary to support preparation of enforcement guidance. Guidance may cover a variety of enforcement topics such as ground-water monitoring or waste oil recycling. The contractor shall also supply personnel necessary to assist in the development of programs designed to disseminate guidance and train enforcement officials.

B. Responsible Party Searches

The Contractor shall furnish the personnel, services and materials necessary to identify and locate all responsible parties and the sources of the wastes. Such investigations are for the purpose of obtaining information in support of both civil and criminal actions, and to attach personal liability to those individuals determined to be responsible for generation, transportation or acceptance of hazardous wastes at sites. The needed information may have to be obtained by performing record searches, title searches, or by interviewing people with any knowledge of the operations of facilities, whereabouts or contents of corporate files, or names of generators and transporters. The investigators may be required to obtain where available and through legal means, such written evidence as invoices, receipts, and manifests.

Responsible parties may include:

- Owners of the site (past and present)
  Operators of the site
- Generators of hazardous substances, pollutants, or contaminants that are stored, treated, or disposed of on-site
- Transporters of hazardous waste to the site

Responsible parties may be liable for:

- Costs incurred by the Government or State for any removal action
- Any other necessary costs of response incurred by any other persons
- Damages for injury to, destruction of, or loss of natural resources, including reasonable costs or assessing such injury, destruction or loss

Once a request is made for a responsible party search involving an uncontrolled site, all available relevant information must be examined. Such information includes but is not limited to:

Regional files

State and local real estate records and tax assessments

NEIC Technical Information Center

Abandoned drums, records, vehicles and buildings

Local fire and police department records

SEC 10 K reports

Dunn and Bradstreet reports

Moody's Industrial manual

Standard and Poor's Corporation descriptions

Interviews with site neighbors

Remedial actions at uncontrolled hazardous waste sites can be costly; therefore, it is imperative that the Government obtain the best information available linking all potential responsible parties to the site. All phases of the investigation must be well documented. After one responsible party is identified, the search to locate others must continue until all leads have been exhausted.

Other tasks may require collection or analyses of data about generators to determine how much waste each of them deposited at a site. The Contractor may be asked to ascertain what percentage of the wastes and ultimate liability belongs to each generator under Category I.

Although this has been a major component of previous TES contracts, we expect that some of this work in the future will be performed by small business set-aside contracts.

C. Enforcement Support Services

The Contractor shall furnish the personnel, services and materials necessary to provide support to enforcement actions. Such support is for the purpose of obtaining and providing information to support administrative and judicial actions. This may require the use of private investigators or investigative services. The investigators may be required to obtain where available and through legal means, such evidence as invoices, receipts, manifests, record searches, interviewing, and other information from available sources. It may be necessary for the submittal of reports to EPA by the investigators which document their findings, observations, and discoveries.

The contractor shall also furnish the personnel, services and materials necessary to process and prepare information to support enforcement actions. This may require the use of secretarial services and file management to provide typing, file copying, and related duties as assigned.

D. Health/Environmental Assessments (including CERCLA Endangerment Assessments)

The Contractor shall furnish the personnel, services, materials and equipment required to perform assessments of effects to human health, welfare and/or the environment at sites which are the subject of ongoing or potential enforcement actions. The objectives of a health/environmental assessment are to identify necessary information; evaluate this information; qualitatively and in certain cases quantitatively predict potential expected or actual hazards, exposures and risks; and to provide adequate and reliable documentation to support the conclusions drawn. This assessment must be consistent with Agency policies and methods and must undergo a thorough Agency review process. OWPE and Agency guidance documents must be used in the preparation of the health/environment assessment.

Pursuant to these objectives the Contractor shall:

1. Identify:

   - chemicals or mixtures present in all relevant environmental media
   - environmental media contaminated (air, soil, water, and/or ground water)
   - transport mechanisms within environmental media identified
   - populations at potential risk within specified area
   - potential exposure routes (inhalation, dermal, oral, ocular)
   - all extant data relevant to the assessment of the above using primary sources wherever possible (including epidemiological studies if available, in-vivo and in-vitro data).

2. Evaluate:

   - adequacy, accuracy/precision, comprehensiveness, reliability and quality of all data identified in 1. above.
   - toxicological and physical properties of all chemicals and/or mixtures identified in 1. above including sufficient detail to support all subsequent predictions and conclusions for enforcement and judicial action.

For the purpose of the assessments, "toxicological properties" include:

- metabolism (absorption, pharmacokinetics, transformation, excretion, etc.)
- acute toxicity
- subacute, subchronic toxicity
- chronic toxicity
- carcinogenicity
- teratogenicity
- mutagenicity

- specific health effects including allergic reactions, immunotoxic actions, neurotoxicity, etc.

For the purpose of the health/environment assessments, "physical properties" includes all necessary physico-chemical information necessary to predict the environmental transport of the chemicals or mixtures identified in 1. above, and the concentrations of these chemicals or mixtures in the potential sources of exposure for terrestrial or aquatic species in air, water, soil or food. These include where available:

- soil/sediment adsorption coefficients
- molecular weights
- melting points, boiling points
- vapor pressures
- solubility, octanol-water partition coefficients
- photodegradation, decomposition rates
- hydrolysis rates and other data
- the environmental fate of the chemicals or mixtures identified should use actual test/monitoring data when possible for evidence of migration, and/or appropriate model systems.

This evaluation must assess the following factors as applicable:

- topography surrounding the site
- soil environment
- aerial photo interpretation
- geological environment
- hydrological considerations
- climate

3. Qualitatively and Quantitatively:

   - describe the potential or actual hazards, exposures and risks expected to result from the environmental release and transport of the chemicals or mixtures identified above using available data or appropriate models in a manner consistent with Agency policies and methods.

   - identify subpopulations which may be at special risk (e.g. very young, very old, malnourished, diseased, pregnant women.

   - identify where applicable and relevant, toxicological indices and parameters such as no observed effect levels or lowest observed adverse effect levels or identify acceptable daily intakes for chronic exposures.

   - perform risk extrapolation using the models and methodology adopted by the EPA such as the linearized, non-threshold multi-stage model for carcinogenicity.

   - describe the expected effects on the environment, for example but not limited to, fish kills, decreased reproductive potential, abnormal larval growth, behavioral changes, ecosystem alterations, etc.

4. Provide conclusions as applicable:

   - for each chemical or mixture identified, each environmental medium involved, and all populations or subpopulations affected regarding the human and environmental impacts expected to result consequential to the production, storage, distribution, use or disposal.

   - regarding the overall confidence in the available data bases or model systems with respect to 2. above.

   - summarize all relevant information in tabular form with appropriate footnotes for DOJ referral, Enforcement action, or public record.

   - outline all assumptions and criteria used to reach said conclusions including all references and citations, with particular emphasis on primary references.

5. Provide adequate and reliable documentation:

   - including use of source citation within the text for all novel information.

   - with complete bibliography and reference list.

- with appendices containing detailed calculations not included in the text.

E. Design of Enforcement Studies

The Contractor shall provide the personnel, services, materials and equipment necessary to prepare a detailed Statement of Work (SOW) for RCRA and CERCLA investigations/feasibility studies for EPA. Where applicable, the detailed SOW for remedial investigations/feasibility studies will be approved and transmitted by EPA to the Remedial Investigation Team (REM/FIT), other EPA Contractors, agents, or potentially responsible parties (PRPs) for execution. A prerequisite to this effort is the ability to analyze any previous studies and recognize the data gaps in these studies. The Contractor must be aware of all potential sources of data to perform an analysis of the character of the site without necessarily conducting field work. Common tasks under this assignment may include, but not be limited to, the following:

- Collect and interpret aerial photos and assess the need for special remote-sensing imagery and its interpretation
- Analyze the data collected
- Assess a defendant's report of investigations and protocols for well drilling, sampling, placement, etc.
- Perform statistical analyses of analytical data submitted in other investigations or by the defendants
- Conduct a field visit and review of reports to determine the adequacy of sampling plans, distribution and adequacy of monitoring wells and other characterization devices
- Perform limited modeling of the extent and paths of migration of contaminants in order to make recommendations for placement of investigative devices for the remedial-type investigation to follow
- Review the proposed corrective action of the owner/operator for completeness before the feasibility study is started
- Review the results of the finished remedial investigation done by REM/FIT for completeness before the feasibility study is started

F. Enforcement Feasibility Study

The Contractor shall provide the personnel, services, materials, and equipment required to identify, analyze, compare and develop corrective action/remedial options, to include costs, for any site which is the subject of potential investigation feasibility study or corrective action conducted by a responsible party. The Contractor shall notify EPA at that point where problems or deficiencies arise from the responsible parties' actions or lack of actions. This compliance monitoring will be under EPA guidance and may require documentation in the form of status updates and reports.

At CERCLA sites, such activities may be after a remedial investigation and follow the format of the Office of Emergency and Remedial Response (OERR), with enforcement considerations added. Remedial Investigation and Feasibility Study work will be done in accordance with the RI/FS guidance published by OERR in May 1985 including any updates and modifications. A copy of this guidance is included as Attachment 10.

G. Special Laboratory Services

The Contractor shall furnish the personnel, services, materials and equipment needed to perform bioassays and other biological tests, including Ames tests, on the types of chemicals found at hazardous waste sites, as well as other types of testing necessary to enforcement case development. Biological and bench-scale testing tests may be subcontracted, but to laboratories acceptable to the EPA. The work may involve CERCLA and RCRA sites which are the subject of ongoing or potential enforcement actions. The purpose of such work is to determine the potential toxic effects of chemicals found at the sites and the efficacy of proposed remedial actions at hazardous waste sites.

The Contractor shall furnish the personnel, services, materials and equipment needed to perform chemical analysis including inorganic and organic chemical analysis. EPA intends to have most chemical analysis of samples for Superfund sites done under the existing Office of Emergency and Remedial Response CLP contracts. For RCRA sites organic analyses by GC/MS will likewise normally be done by the CLP contracts.

a. ignitability, corrosivity, reactivity, and E.P. toxicity

b. priority pollutant analysis

c. appendix VIII constituents

d. RCRA ground water indicator parameters, parameters establishing ground water quality, drinking water standards

The quality control procedures for the CLP contracts apply in this case. A copy of these procedures is included in Attachment 6. Simple measurements such as the criteria for hazardous wastes may be required under this contract. Situations may require a rapid turnaround of sampling results and the Contractor shall be prepared to provide for this condition on a limited basis.

The contractor shall furnish the personnel and equipment to do laboratory and bench-scale testing. This may include, but are not limited to:

- compatability studies between a choice of clay proposed for a slurry wall and the contaminants found at a site
- bench-scale treatability tests for contaminated ground-water samples
- viability tests for plant life on hazarous waste sites

Biological Assays

The following are examples of the biological laboratory testing and analyses which may be required to be performed on pure samples of certain chemicals identified at hazardous waste sites:

mutagenicity assays - single tests or a battery of tests appropriately designed for a specific chemical compound. EPA Good Laboratory Practice Standards (attachment 11) must be adhered to in conducting these types of in vitro and in vivo tests.

teratology screening assays and reproductive effects studies - these tests must follow recommendations of EPA's Reproductive Effects Assessment Group.

skin painting assays - initiation and/or promotion studies for determining cancer causing activity, preferably with advice and guidance from EPA's Health Effects Research Laboratory.

acute, subacute, and possibly chronic toxicity studies on chemicals for which such data is sparse or lacking

bioavailability studies - may include dermal penetration studies, absorption studies, metabolism studies, etc.

Separate protocols may need to be designed for each chemical compound and for each individual study performed on a specific chemical. Standard protocols may be acceptable in other cases. EPA scientists may be requested to assist in certain protocol designs and to closely monitor testing.

The Contractor shall assure the performance of all QA/QC procedures which are necessary to conform to EPA/OWPE requirements on all samples and data which are collected. Proper chain-of-custody procedures must be followed. These procedures must be in conformance with NEIC procedures. Excerpts from the NEIC manual are included as Attachment 12.

H. Review of Responsible Party's Plans/Compliance Monitoring

The Contractor shall provide the personnel, services, materials and equipment required to review a responsible party's feasibility study or plans for clean-up of a designated facility or site. The purpose of the Plan Review is to ensure compliance with the governing documents, including agreements by negotiation, EPA policy, consent decrees, administrative orders or other proposals agreed upon by the responsible parties. EPA will provide access to all documents needed in the performance of this activity.

Typical support assignments for review of plans designed by a responsible party are as follows:

- review of price packages
- oversight of a responsible party's field work
- comparison of compliance plan with design schedule and financial projections
- review of technical reports or other data submitted by a responsible party
- evaluation of technical capabilities of the responsible party, proposed consultant, or subcontractor to adequately implement the proposal

I. Expert Consultants/Witnesses

The Contractor shall furnish the personnel, services and materials needed to assist the enforcement staff and Department of Justice (DOJ) attorneys in litigation or administrative actions. This assistance will be in support of civil actions, administrative orders, administrative hearings, consent decrees, formal negotiations/settlement meetings with private parties, and trial. The Contractor may be asked to locate qualified experts in such fields as but not limited to:

Human Health
- toxicology
- epidemiology
- medical opinion
- public health
- biostatistics

Financial/Accounting
- auditing
- financial analysis
- financial accounting

Environmental Effects

- aquatic and mammalian toxicology
- aquatic biology
- ecology
- entomology
- environmental fate

Physical Sciences

- geology
- hydrology
- soil science
- geological engineering
- geotechnical engineering
- chemical engineering
- analytical chemistry
- research chemistry
- materials engineering (corrosion)

These candidates must possess the special qualifications needed by the Agency for particular enforcement actions; in most cases experts who are preeminent in their field will be required, at times on short notice. Work includes:

- performing a search for experts in a specific field taking into account the geographic location of the site. The Contractor must incorporate OWPE experts file (now existing on IBM-PC in DBASE III) in its search for experts
- providing OWPE a nominee who fulfills the Agency's needs for particular enforcement actions. This candidate is usually preeminent in their field of expertise
- preparing special certification on any issue involving confidentiality (confidentiality agreements)
- certifying to EPA/DOJ that an expert witness has accurately represented his/her credentials and expertise in any resume or other information provided to the contractor

The following is expected to be performed by the expert:

- preparation of written statements or affidavits describing the expert's background and educational qualifications, publications and experience in the field of hazardous wastes
- attending meetings at EPA Headquarters or other designated places to discuss courses of action
- aiding in the drafting of work assignments for enforcement investigations
- conducting a site inspection including limited sampling

using readily available equipment

traveling to laboratories or procuring data in the data management system for input to the case

recommending special samples and special protocols for taking samples at a site

evaluating and testifying to laboratory results including quality of data

evaluating previous studies and denoting data gaps or recommending other studies

reviewing the literature for studies on toxic effects of certain contaminants, the feasibility of some specific remedy and evaluating the relevance of those studies to the case at hand

participating as a member of the negotiation/litigation team which includes providing consultation to the team, submitting formal affidavits, giving depositions and testifying at trial

assisting in the assessment of the responsible party's technical case, as well as their choice of experts

evaluating the structural integrity of underground tanks based on a review of construction materials, in-situ reactions of contents, past and present, to construction materials

providing written or oral testimony in Federal Court or administrative hearings

Although the contractor is responsible for nominating particular experts, the task manager may either approve or not approve the work plan and consequently the choice of expert after consultation with the litigation team. It is, therefore essential that the contractor understand the selection criteria.

J. Data Management

The Contractor shall furnish the personnel, services, materials, and equipment required to manage data collected in the course of RCRA and CERCLA investigations and enforcement activities. The equipment shall be compatible with the IBM-PC (XT and AT) and associated software (Lotus 1,2,3 and DBASEII and DBASEIII).

These data may include results of environmental measurements, characteristics of hazards, target descriptors, remedial action schedules, corrective action costs, technical information retrieval systems, cost recovery data, obligation rates and other financial information, applicable regulations and criteria, mailing lists and manifest files uncovered in a responsible party search. Data management may involve the following tasks:

screening

formating

input

design of special information systems

processing

selective retrieval

preparation of special displays

provide a plan for a secure system to ensure the integrity of enforcement-related records

The principal sources for the data are responsible party searches, enforcement feasibility studies, facility inspections, investigations and endangerment assessments. The data can be used in the feasibility studies and review of the responsible party's plans. This last application of data management is to provide support for enforcement proceedings against the responsible parties.

The Contractor shall perform all automatic data processing in accordance with the EPA ADP manual (Attachment 13) and ADP Systems Documentation Standards (Attachment 14). The Contractor shall also be required to use IBM/PC compatible microcomputers and telecommunications software and hardware. Other requests may include the following:

- stamping business documents with Document Control Numbers
- enter into the data base parameters and concentrations of drum samples while referencing identified generators by shipment lot number
- assigning outgoing shipment log numbers and entering into the data base information from customer files
- entering different document descriptions of the waste for each shipment and entering purchase order prices for shipments in and out of the site
- developing printouts for EPA and DOJ during litigation
- entering into the data base records on the amount of waste reclaimed from a particular shipment, including date reclaimed, amount of stock, percent recovered and type of waste

The Contractor shall also be expected to establish a computerized management information system (MIS) to track the performance of each work assignment. The MIS shall be compatible with the OWPE MIS or IBM/AJ. The format of the work assignment reports will be specified by OWPE in the first work assignment.

K. Quality Assurance

When taking samples, the Contractor must institute a quality assurance program which EPA will evaluate and oversee, assuring a high quality of performance and compliance with applicable policies and procedures by all personnel. The program shall consist of both an auditing and a corrective function. The auditors shall report directly to the Contractor's corporate management, which will then be expected to bring the resources of the firm to bear on the solution of any problems uncovered.

Accuracy of data: QA program/project plans must describe how all data generated will be assessed for accuracy, precision, completeness, representativeness, and comparability. The QA program must require that data be accompanied by a calculation of precision and accuracy. Relevant Good Laboratory Practices must be followed.

The following auditing operations are particularly in need of quality assurance:

- adequacy of data collection
- management procedures
- adherence to established methods of sampling, collection, and analysis
- demonstrations of the effectiveness of remedial alternatives
- implementation of health and safety procedures
- adherence to budgetary projections
- adherence to facility plan
- compliance with RCRA
- compliance with local laws and regulations
- compliance with other applicable policies and procedures
- compliance with chain-of-custody procedures

Corrective Action: each QA program/project plan must include provisions for establishing and maintaining QA reporting or feedback channels to the appropriate management authority to ensure that early and effective corrective actions are taken if data quality falls below required limits. The QA program/project plans also must include provisions to keep responsible management informed of the performance of all data collection systems and must describe the mechanism(s) to be used when corrective actions are necessary. Corrective action relates to the overall QA management scheme: who is responsible for taking corrective actions; when are corrective actions to be taken; and who follows-up to see what corrective actions have been taken and that they have produced the desired results.

Corrective actions will be minimized through the development and implementation of internal controls prior to an adverse program impact. Each measurement system must have limits to establish when corrective action must be taken. A procedure must be established for each measurement system to show that corrective action will be followed and limits for this procedure have been exceeded. The level within the organization that is responsible for taking corrective action must be specified.

The following QA activities may produce results which require that some corrective actions be taken:

A. Performance Audits
B. Systems Audits
C. Interlaboratory/Interfield Comparison Studies

The QA program/project plan must be accompanied by an implementation schedule which includes periodic monthly reports to the Project Officer for review and evaluation.

The generic QA/QC program plan must be sufficient so that only portions may require slight modifications to address individual projects.

L. Cost Recovery

The Contractor shall furnish the personnel, services, and materials needed to assist the enforcement staff in the collection of evidence to document costs expended by the Government at sites in order to aid in cost recovery efforts. This assistance will be in support of the preparation by OWPE for civil actions, including pre-trial and auxilliary services, listed below, leading to formal negotiations/meetings with private parties, and trial. The contractor may be tasked to assign qualified people who can perform various accounting functions.

Typical assignments may include:

- analysis of accounting reports
- putting all cost data in a format to be used at trial

EPA will provide access to all documents needed in the performance of this activity.

M. Field Work

The Contractor shall furnish the personnel, services, material, and equipment required to perform field sampling which will be limited in scope and whose primary purpose will be to fill in existing data gaps in enforcement and compliance actions. EPA may be required to conduct limited sampling of ground water and surface water, soil, air, sediments, and biota as well as provide a continuous chain of custody for these field samples.

Some well drilling may be required to sample ground water. The Contractor shall be prepared to collect samples as required to fill in data gaps or complete analysis of a facility monitoring program. The Contractor may be tasked to obtain or offer split samples or to take over the chain-of-custody of samples obtained by other contractors and deliver them to the designated analytical labs.

Remedial Investigations will continue to be done primarily by the Office of Emergency and Remedial Response contract or the responsible party as appropriate. This contract will conduct remedial investigations as a contingency to a determination that OERR Contracts cannot be used in a timely manner.

The Contractor shall prepare reports which evaluate a facility's monitoring system and determine its compliance to EPA/RCRA requirements including applicable State requirements. This report should include recommendations on improving or expanding an existing ground water monitoring, system. The Contractor shall be able to review a facilities sampling and analysis plan and field verify if the plans are followed in practice and submit this review to EPA. The review must detail deficiencies and areas where QA/QC procedures are not performed.

N. Policy and Program Support (Primarily Zone 1)

The effort required for this category of activities relate to support for program management. The Contractor shall furnish the personnel, services and materials necessary to support the policy and program management functions of the hazardous waste enforcement program. The program is responsible for development of data and analyses necessary to support Agency budget and policy-making processes in the area of hazardous waste enforcement.

Typical assignments in this area may involve:

. Support of development of enforcement policies and strategies

The Contractor may be required to assist in development or revision of CERCLA or RCRA technical and administrative enforcement guidance documents by analyzing options and their institutional implications and economic impacts. The 1984 amendments to RCRA have more closely linked the RCRA and CERCLA programs. The likely reauthorization of CERCLA will also contain provisions linking the two programs. The Contractor may be required to assist in analyzing these linkages and in developing management strategies and policies to implement these new relationships. The Contractor may also be required to support workload analysis, budget preparation, justifications and execution; program resource analysis of space personnel and services.

Assistance in coordination of enforcement and compliance monitoring to assure an effective and nationally consistent program The Contractor may be required to assist in design, evaluation, modification and implementation of CERCLA management information

The Contractor may also be required to assist in design, modification and implementation of documentation procedures to support technical and administrative enforcement actions, including file structuring and ordering case materials, and documentation of information concerning costs from the CERCLA Trust Fund incurred by the Agency, and in statistical gathering and analysis functions for management information systems and accountability reports. Other possible activities include:

(1) development of management information systems and record management systems in support of the internal management of the hazardous waste enforcement program.

(2) Support in analysis and evaluation of current program directions, including development of recommendations and program modifications as needed.

(3) State and Regional RCRA and CERCLA programs will be subject to review and evaluation to determine national consistency and to support development of any necessary modifications. The Contractor may be required to assist in development of evaluation criteria and in review of State, Regional and Headquarters RCRA and CERCLA programs and activities.

Support for special projects for OWPE

Activities may include assistance in planning meetings, providing briefing materials and planning and implementation of training sessions or development of appropriate training materials applicable to this program. (see Q. Training)

This element of the Scope of Work will primarily be done by the Zone 1 contractor. The Zone 2 contractor may be tasked to performed analyses where this technical experience on work assignments can be generalized to establish policy, such as for monitoring techniques.

O. Oversight of Responsible Party Actions

The Contractor shall furnish the personnel necessary to oversee actions taken by responsible parties in conjunction with remedial/corrective actions, installation of minimum technological requirements and other designated activities as requested by EPA. This may involve presence on-site and review of technical data and reports by responsible parties at contractor's facilities or at other locations where there may be meetings discussing the data and reports.

On-site, the Contractor shall monitor and evaluate the activities of the responsible party and advise EPA whether that work is in compliance with applicable agreements, orders, and guidance. The Contractor may be asked to provide inspectors with skills such as but not limited to:

- slurry wall construction
- dam construction
- pipe sealing (radial and axial)
- slope construction
- cap construction
- soil treatment
- groundwater treatment
- liner/leachate collection system installation
- closure activities

P. Community Relations

The Contractor shall furnish the personnel, services and materials necessary to assist EPA in the development of community relation activities at enforcement-lead sites. Such activities may include but not be limited to:

- Preparation of community relations plans.
- Preparation of fact sheets for use by Headquarters and the Regions containing summaries of data and facts of the case.
- Providing technical support at technical meetings. This will include preparation of audio-visual materials, presentation of facts and technical issues surrounding the case as well as attendance at public meetings to provide technical input to the community.

Q. Training

The contractor will furnish the personnel, services and materials necessary to assist EPA with development and implementation of training activities for enforcement processes and operations and to conduct training. Such activities may include but are not limited to the preparation of lesson plans including the purpose, performance objectives, step-by-step procedures, evaluation criteria and any materials and aids for conducting classes.

Probable areas where training activities will be necessary include the following:

- responsible party searches
- health and environmental studies such as endangerment assessments
- design and implementation of enforcement remedial investigation and feasibility studies
- sampling and analysis used for enforcement purposes
- review of responsible party work plans and reports

- cost recovery
- oversight of responsible party actions
- negotiations
- community relations
- enforcement investigations and inspections
- preparation and management of litigation (courtroom procedures)
- criminal enforcement
- closure/post closure
- corrective action
- ground water courses
- RCRA/CERCLA statute, regulations and interface
- technology transfer: treatment incineration; containment, recycling

IV. Distribution of Work Between Zones

Normally, work for designated zones will be performed by that Zone's contractor. However, the Government reserves the right to distribute work to the other Zone TES contractor as required. The following are examples of the considerations the Government will make in deciding work distribution between Zone contractors:

A. Organizational conflicts of interest concerns;

B. Outstanding and specialized expertise and experience possessed by one contractor, e.g. expert witnesses.

C. Overextending a contractor's ability to perform particular services in his/her Zone, e.g. sampling analysis, responsible party searches, etc.

D. Underbooking of one Zone TES contractor's base period level-of-effort.

Therefore, from time to time, the contractor may be required to perform work outside the contractor's designated Zone.

Attachment B

SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN

DATE: April 2, 1986

CONTRACTOR: Camp Dresser & McKee Inc.

ADDRESS: Federal Program Center, 7611 Little River Turnpike, Suite 104,
Annandale, Virginia 22003

SOLICITATION OR CONTRACT NUMBER: WA 86-J001

ITEM/SERVICE: Technical Enforcement Support (TES) at Hazardous Waste Sites

The following together with any attachments, is hereby submitted as a Subcontracting Plan to satisfy the applicable requirements of Public Law 95-507 as implemented in FAR 52.219-009.

1. (a) The following percentage goals (expressed in terms of a total planned subcontracting dollars) are applicable to the Contract cited above or to the Contract awarded under the solicitation cited.

   (i) Small Business Concerns: 45% of total planned subcontracting dollars under this Contract will go to subcontractors who are Small Business concerns.

   (ii) Small Disadvantaged Business Concerns: 15% of total planned subcontracting dollars under this Contract will go to subcontractors who are Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals. This percentage is included in the percentage shown under 1.(a)(i), above, as a subset.

   (b) The following dollar values correspond to the percentage goals shown in (a) above.

   (i) Total dollars planned to be subcontracted to Small Business Concerns: $12,600,000.

   (ii) Total dollars planned to be subcontracted to Small Disadvantaged Business Concerns: $4,200,000. This dollar amount is included in the amount shown under 1.(b)(i), above as a subset.

   (c) The total estimated dollar value of all planned subcontracting (to all types of business concerns) under this Contract is $28,000,000.

1. (d) The following principal products and/or services will be subcontracted under this Contract;

Analytical and special laboratory services, field work, community relations, responsible party searches, plan reviews, remedial action oversight, training, RCRA compliance, enforcement, policy and program, data management, cost recovery, health/environmental study support services, expert consultants and witnesses, enforcement studies, design and performance of enforcement feasibility studies.

(e) The service areas to be subcontracted reflect the spectrum of program requirements. Team and/or speciality small and small disadvantaged business (SDB) subcontractors will participate in virtually every facet of program activities. In addition to providing an organization of motivated, highly qualified firms to support the program, the subcontracting program provides the means by which small and small disadvantaged businesses can routinely and actively take part in all major program elements. The capabilities of these firms were evaluated and determined through interviews, public and private sector reference and work history evaluations, solicitation of qualification reviews, and prior professional relationship experiences. These firms were identified through private and public sector contacts, business development directories, responses to solicitations of qualifications, expressions of interest to CDM, CDM's own database of information on almost one thousand businesses, SBA's, PASS and previous working relationships.

Source lists were developed to provide a pool of potential subcontractors to meet TES project requirements. Source lists were developed utilizing several resources. The resources included:

- o Suggestions by TES Team firms
- o Periodic general qualification solicitations
- o Unsolicited qualification statements
- o Small Business Administration Procurement Automated Source System
- o Directory of Minority Business Enterprises
- o Directory of Important Labor Areas
- o EPA Procurement and Contract Management Division
- o Specific solicitation submittals.

These source listings are categorized by work type, i.e., construction, surveying, laboratory services, engineering, etc.., and geographic area.

The individual source listings are further broken down into large, small, small disadvantaged, and women owned businesses to assure adequate listings are maintained in these areas.

Firms on the source lists will receive a preliminary screening to identify past hazardous waste experience, health and safety requirements, insurance requirements, and potential conflicts of interest. This preliminary screening will serve as a prequalification of firms for specific types of services, those areas that will potentially require emergency authorizations. Source lists will be updated semi-annually through a general qualification solicitation.

CDM has access to the Procurement Automated Source System (PASS), maintained by the U.S. Small Business Administration which currently includes the profiles of over 70,000 small firms who have expressed an interest in government contracts and subcontracts. The data bank has approximately 13,000 minority-owned businesses and 11,000 female-owned firms, and lists of these businesses, identified by the services they provide, are available upon request for a nominal fee. In addition, the U.S. Department of Commerce also maintains a listing of minority and woman-owned businesses by geographic location. CDM currently has on file profile firms in the Washington, D.C. area, and lists may be easily obtained based upon the location of subcontracting opportunities. CDM is also a subscriber to "Area Trends in Employment and Unemployment" issued by the U.S. Department of Labor Employment and Training Administration.

(f) Indirect and overhead costs (check one below):

( ) have been (X) have not been

Included in the goals specified in 1(a) and 1(b).

2. The following individual will administer the subcontracting program:

Name: Jonathan G. Curtis

Address & Telephone: 7611 Little River Turnpike, Suite 104
Annandale, Virginia 22003 (703) 642-0544

Title: Vice President

This individual's specific duties as they relate to the firm's subcontracting program are as follows:

General overall responsibility for CDM's profit center (FPC) Small Business Program, developing, preparing and executing individual subcontracting plans, and monitoring performance relative to contractual subcontracting requirements contained in this plan, including but not limited to:

(a) Developing and maintaining bidders list of Small Disadvantaged Business Concerns from all possible sources.

(b) Ensuring that procurement packages are structured to permit Small and Small Disadvantaged Business Concerns to participate to the maximum extent possible.

(c) Assuring inclusion of Small and Small Disadvantaged Business Concerns in all solicitations for products or services which they are capable of providing.

(d) Reviewing solicitations to remove statements, clauses, etc., which may tend to restrict or prohibit Small and Small Disadvantaged Business Concerns participation.

(e) Ensuring the establishment and maintenance of records of solicitations and subcontract award activity.

(f) Attending or arranging for attendance of company counselors at Business Opportunity Workshops, Minority Business Enterprise Seminars, Trade Fairs, etc.

(g) Conducting or arranging motivational training for purchasing personnel pursuant to the intent of Public Law 95-507.

(h) Monitoring attainment of proposed goals.

(i) Preparing and submitting required periodic subcontracting reports.

(j) Coordinating Contractor's activities during the conduct of compliance reviews by Federal agencies.

(k) Coordinating the conduct of Contractor's activities involving its Small and Small Disadvantaged Business subcontracting program.

(l) Assisting small and small disadvantaged business concerns by arranging solicitations, specifications and schedules so as to encourage the participation of such concerns.

(m) Counseling and discussing subcontracting opportunities with representatives of small and small disadvantaged business concerns.

3. The following efforts will be taken to assure that Small and Small Disadvantaged Business Concerns will have an equitable opportunity to compete for subcontracts:

   (a) Outreach efforts will be made as follows:

      (i) Contacts with minority and small business trade associations and with local and regional governmental agencies responsible or aiding the development of these businesses.

(ii) Contacts with business development organizations.

(iii) Attendance at small and minority business procurement conferences and trade fairs.

(iv) Sources will be requested from SBA's PASS.

(b) Activities will be monitored to evaluate compliance with this subcontracting plan.

(c) Small and Small Disadvantaged Business Concern source lists, guides, and other data identifying Small and Small Disadvantaged Business Concerns will be maintained and utilized in soliciting subcontracts.

4. Camp Dresser & McKee Inc. agrees that the Clause entitled Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (FAR 52.219-8) will be included in all subcontracts which offer further subcontracting opportunities, and all subcontractors, except Small Business Concerns, who received subcontracts in excess of $500,000 will be required to adopt and comply with a subcontracting plan similar to this one. Such plans will be reviewed by comparing them with the provisions of Public Law 95-507, and assuring that all minimum requirements of an acceptable subcontracting plan have been satisfied. the acceptability of percentage goals shall be determined on a case-by-case basis depending on the supplies/services involved, the availability of potential Small and Small Disadvantaged subcontractors, and prior experience. Once approved and implemented, will be monitored through the submission of periodic reports, and/or, as time and availability of funds permit, periodic visits to subcontractors facilities to review applicable records and subcontracting progress.

5. Camp Dresser & McKee Inc. agrees to submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency or the Small Business Administration in order to determine the extent of compliance by the bidder with the subcontracting plan and with the Clause entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" contained in the Contract.

6. Camp Dresser & McKee Inc. agrees that he/she will maintain at least the following types of records to document compliance with this subcontracting plan:

(a) Small and Small Disadvantaged Business Concern source lists, guides, and other data identifying Small Business and Small Disadvantaged Business Concerns vendors.

(b) Organizations contacted for Small and Disadvantaged Business sources.

(c) On a contract-by-contract basis, records on all subcontract solicitations over $100,000 indicating on each solicitation(1) whether Small Business Concerns were solicited, and if not, why not; (2) whether Small Disadvantaged Business Concerns were solicited, and if not, why not; and (3) reasons for the failure of solicited Small and Small Disadvantaged Business Concerns to receive the subcontract award.

(d) Records to support other outreach efforts: Contacts with Minority and Small Business Trade Associations, etc. Attendance at small and minority business procurement conferences and trade fairs.

(e) Records to support internal activities to guide and encourage buyers: Workshops, Seminars, training programs, etc. Monitoring activities to evaluate compliance.

(f) On a contract-by-contract basis, records to support subcontract award data to include name, address and business size of subcontractor.

Signed: ____________________

Typed Name: Gary A. Dunbar

Title: Senior Vice President

Date: April 2, 1986

Plan Accepted By: ____________________
Contracting Officer

Date: ____________________

ATTACHMENT C
Exhibit 1

EXHIBIT I
SAMPLE ALLOCATION OF ADMINISTRATIVE AND ALLOCABLE NON-SITE COSTS FOR CONTRACTORS WHOSE FUNDS ARE NOT OBLIGATED SITE-SPECIFICALLY

CATEGORY	TOTAL ANNUAL COSTS		ALLOCATION OF ADMIN COSTS	ALLOCATION OF ALLOCABLE NON-SITE COSTS	TOTAL ALLOCATED COSTS
Program Management	1,500				
Fees	1,800				
Total Administration Costs		3,300	-3,300.00		
Allocable Non-Site Activities	1,200		151.15	-1,351.15	
Total Allocable Costs		4,500			
Non-Allocable Non-Site Activities					
Activity 1	2,000		251.91		251.91
Activity 2	2,000		251.91		251.91
Total Non-Site Costs		8,500			
Sites With EPA IDs					
Site A	3,000		377.86	193.02	570.88
Site B	1,000		125.95	64.34	190.29
Site C	2,000		251.91	128.68	380.59
Sites Without EPA IDs					
Region 1	10,000		1,259.54	643.41	1,902.95
Region 2	5,000		629.77	321.70	951.47
Total Site Costs		21,000			
Total Non-Administration Costs		26,200			
TOTAL	29,500				4,500,00

NOTES: Any allocable costs which are Region-specific should be applied separately against the site costs in that Region only. Non-Region-specific costs should be applied against all sites after the Regional calculations have been made.

For some contractors, the number of technical hours worked may be a more reasonable basis for allocation than costs. The Project Officer will make this determination upon request.

ATTACHMENT C
Exhibit 2

Site-specific Invoicing (2/86)

SUPERFUND SITE-SPECIFIC INVOICE ATTACHMENT FORMAT

CONTRACTOR NAME:

CONTRACT NUMBER:

INVOICE NUMBER:

TDD or WA Number (Opt.)	Region	Site Number	Site Name	SPO	Date	Trans-action Code	D/C	R/C	Document Control Number	Obligating Document Number	Account Number To Be Charged	Account Number Of Initial Obligation	Object Class Code	Amount	Treasury Schedule Number	Invoice Number	Cumulative Costs
(8)	(2)	(2)	(15)	(2)	(6)	(3)	(1)	(1)	(6)	(15)	(10)	(10)	(4)	(10)	(5)	(9)	(10)

COSTS FOR SITES WITH EPA S/S IDs

Subtotal

NON SUPERFUND COSTS

Costs For Sites
Without EPA S/S IDs (by Region)

Subtotal

Program Management Costs

Fees

Non-Site Activities (specify)

NON-SUPERFUND COSTS (by appropriation)

TOTAL INVOICE AMOUNT

Note: Numbers in parentheses are the number of spaces to be left available for each element, not including spaces between columns

ATTACHMENT C
Exhibit 3

Site-specific Invoicing (2/86)

ANNUAL SUMMARY OF NON-SITE SUPERFUND COSTS

Fiscal Year 19____

Contract No. ____________

CATEGORY OF COSTS PAID			
Program Management	$1,500		
Base and Award Fees	1,800		
Total Administration		$3,300	
Allocable Non-Site Activities (specify)			
Activity 1	600		
Activity 2	300		
Activity 3	300		
Total Allocable Superfund Costs			$4,500
Non-Allocable Non-Site Activities (specify)			
Activity 1	2,000		
Activity 2	2,000		
Total Non-Site Superfund Costs Paid 2/			$8,500

1/ To be allocated to sites and all non-site activities

2/ Total for each fiscal year must equal non-site Superfund amount paid during fiscal year

ATTACHMENT C
Exhibit 4

ANNUAL ALLOCATION OF ALLOCABLE SUPERFUND COSTS

Fiscal Year 19 _____

Contract No. ________

Allocation to Sites With S/S IDs				AMOUNT ALLOCATED	DATE	DCN	ACCOUNT NUMBER TO	ACCOUNT NUMBER FROM	OBJECT CLASS
Region	State	Site Name	S/S ID						
					(TO	BE	COMPLETED	BY	EPA)
			A	570.88					
			B	190.29					
			C	380.59					
Allocation to Sites Without S/S IDs (Where Applicable)									
Region 1				1,902.95					
Region 2				951.47					
Etc.									
Allocation to Non-Allocable Non-Site Activities (specify)									
Activity 1				251.91					
Activity 2				251.91					
Etc.									
Total Allocable Superfund Costs 1/				$4,500.00					

1/ Must equal total allocable Superfund costs from Attachment B

ATTACHMENT C
Exhibit 5

Site-specific Invoicing (2/86)

INVOICE INFORMATION TO BE SUBMITTED ON SUPERFUND SITE-SPECIFIC INVOICE ATTACHMENT FOLLOWING ANNUAL ALLOCATION

	AMOUNT (current)	CUMULATIVE COSTS
SITES WITH EPA IDS:		
A-Direct	5,600	8,600.00
Allocated	-	570.88
B-Direct	10,000	11,000.00
Allocated	-	190.29
C-Direct		
Allocated	7,200	9,200.00
SITES WITHOUT EPA IDS:	-	380.59
Region 1-Direct	3,500	13,500.00
Allocated	-	1,902.95
Region 2-Direct	4,300	9,300.00
Allocated	-	951.47
NON-SITE COSTS:		
Non-Allocable Non-Site Activities:		
Activity 1-Direct	1,000	3,000.00
Allocated	-	251.91
Activity 2-Direct	3,000	5,000.00
Allocated	-	251.91
Program Management		
Total	1,500	3,000.00
Allocation of prior year costs	-	-1,500.00
Fees		
Total	5,000	6,800.00
Allocation of prior year costs	-	-1,800.00
Allocable Non-Site Activities		
Total	1,000	2,200.00
Allocation of prior year costs	-	-1,200.00
TOTAL	$42,100	71,600.00

NOTE: The allocated costs should continue to appear as a separate line item and in the cumulative column for all sites and activities for the remainder of the contract. Additionally, invoices will probably have been submitted between the end of the previous fiscal year and the invoice following the allocation, and those amounts should also be included in the cumulative costs.

REPORTS OF WORK

The contractor shall prepare and deliver the following reports to the designated addressees. Each report shall cite the contract number and identify the Environmental Protection Agency as the sponsoring agency.

I. Monthly Progress Reports

The contractor shall furnish 4 copies of a combined monthly technical and financial progress report briefly stating the progress made, including the percentage of work ordered and completed during the reporting period. Specific discussions shall include difficulties encountered and remedial action taken during the reporting period and anticipated activity during the subsequent reporting period. In addition, the report shall specify contract financial status by:

a. Cumulative costs and direct labor hours expended from the effective date of the contract through the last day of the current reporting month.

b. Actual costs and direct labor hours expended during the current reporting month.

c. Estimated costs and direct labor hours to be expended during the next reporting period.

d. Actual costs and direct labor hours incurred and estimates of costs and man hours required to complete each work assignment.

e. This submission does not change the notification requirements of the Limitation of Cost or the Limitation of Funds clauses requiring separate notice to the contracting officer.

The reports shall be submitted to the following addressees on or before the 20th of each month following the first complete calendar month of the contract.

Distribution

Number of copies	Addressee
3	Project Officer
1	Contracting Officer

II. WORK ASSIGNMENT MONTHLY REPORTS

Work Assignment monthly reports shall be grouped by each of the 10 EPA Regions. Separate reports shall be submitted for 1) each region, 2) for all Work Assignments not specific to a region, and 3) for RCRA Work Assignments.

a. Technical Section. For each Work Assignment, a description of the progress made during the reporting period, difficulties encountered, remedial actions taken, anticipated activities during the subsequent reporting period and any quality assurance activities are to be addressed. Discussion of each Work Assignment shall begin on a new page of the report.

b. Financial Section. The financial section shall include the following:

(1) A tabulation of technical labor hours and costs by Work Assignment, similar to the overall contract financial section described in Paragraph A.1.b.(1), above shall be included with each report.

(2) No graphical presentations of financial information will be required for the work assignment monthly reports.

c. Work Assignment Monthly Reports shall be submitted to the following addressees on or before the 20th day of each month following the rporting period:

Number of Copies	Addressee
3	Project Officer (all sections)
1	TES Regional Contact (appropriate sections)
1	Contract Negotiator (all sections)

III. Work Assignment Specific Reports

Work Assignments issued by the Contracting Officer will specify reporting requirements relating directly to the individual Work Assignment, except that a Work Plan and a Final Report shall be delivered for every Work Assignment. Format, content, due date(s) and distribution requirements for such deliverable documentation will be specified in the Work Assignment which details the work. The Contractor shall deliver such reports in accordance with the requirements specified in each Work Assignment.

In addition, each Work Assignment will require the following:

1. Work Plan

   a. Within fifteen (15) calendar days after receipt of each Work Assignment, the Contractor shall prepare a Work Plan for accomplishing the Assignment and deliver two (2) copies to the Project Officer, one (1) copy to the designated Regional Contact (if appropriate) and one (1) copy to the Contract Negotiator. The Work Plan shall include the following items.

      (1) Introduction and project approach, including a timetable.

      (2) Outline of the report.

      (3) Identification of proposed personnel to be used in execution of the Work Assignment.

      (4) Anticipated interviews and/or subcontractor or consultant use.

      (5) Anticipated interviews and/or subcontractor or consultant use.

      (6) Cost Estimate.

      (7) Any exceptions to the Work Assignment.

2. Briefings

   As required by individual Work Assignments, the Contractor shall arrange and perform briefings at the times and places and on the subject and for the audiences specified in the Assignment.

3. Draft Final Report

   As required by individual Work Assignments, the Contract shall submit two (2) copies to the Project Officer and one (1) copy to the Regional Contact (if appropriate) of the Draft Final Report one (1) month prior to the completion of the period of performance set forth in the Work Assignment. The Contractor shall furnish to the Contract Negotiator a copy of the letter transmitting the draft.

   The Project Officer will review and return each submission of the Draft Final Report, including approval or disapproval and comments, if necessary, within fourteen (14) calendar days. In the event the Government delays review and return of any submission of the Draft Final Report beyond the period specified, the Contractor shall immediately notify the Contract Negotiator in writing and the Contractor will be entitled to a day-for-day extension in submission of the approved Final Report(s). The Draft Final Report shall be typed double-spaced or space-and-a-half and shall include all illustrations, tables, drawings, charts, data sheets, and other pertinent material required for an approved Final Report.

4. Final Report

On or before the conclusion of the period of performance specified in each Work Assignment, the Contractor shall deliver a Final Report in accordance with the following distribution:

DISTRIBUTION

Number of Copies	Addressee
1	Contract Negotiator
5	Project Officer
1	TES Regional Contact (for regional reports)
1	Patent Advisor (A-134) EPA, Washington, DC 20460
1	Library (Pm-213 EPA, Washington, DC 20460

IV. Draft Year-End Report

Sixty (60) days prior to the conclusion of each year of this contract, the Contractor shall submit a draft Year-eng Report in two (2) copies to the Project Officer and one (1) copy to the Contract Negotiator. This report shall provide a brief summary of activities performed and those planned for completion during the period being reported. The report shall include the Contractor's assessment of the overall contract program (both organizational and technical) and recommendations for improving the effectiveness of the program. The Government will review and return the draft Year-End Report, indicating approval or disapproval within thirty (30) calendar days. The draft copy shall be typed double-spaced or space-and-a-half and should include all illustrations, tables, drawings, charts, data sheets, and other pertinent material required for a Year-End Report.

V. Year-End Report

On or before the conclusion of each year of this contract, the Contractor shall submit the final version of the Year-End Report covering the immediately preceding period. The Year-End Report shall be submitted in the number of copies specified to the following addressees:

Attachment D
Page 5 of 5

DISTRIBUTION

NUMBER OF COPIES	ADDRESSEE
1	Contract Negotiator
15	Project Officer
1	TES Regional Contact (for regional reports)
1	Patent Advisor (A-134) EPA, Washington, DC 20460
1	Library (PM-213) EPA, Washington, DC 20460

ATTACHMENT E

AWARD FEE PLAN

TECHNICAL ENFORCEMENT SUPPORT AT HAZARDOUS WASTE SITES

Attachment E

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2	General	1
3	Award Fee Personnel	1
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6	Weighting	5
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Exhibit	EPA Form No.	Title
1	--	Contractor Performance Evaluation Worksheet
2	--	EPA Performance Evaluation Worksheet
3	1900-41A	CPAF Contract Summary of Significant Performance Observations
4	1900-41B	CPAF Contract Individual Performance Event
5	--	Performance Evaluation Board Worksheet

Attachment 7
Page 1 of 11

AWARD FEE PLAN

TECHNICAL ENFORCEMENT SUPPORT AT HAZARDOUS WASTE SITES

1. Purpose

The purpose of this Award Fee Plan is to describe the Government's plan for monitoring, assessing, and evaluating the contractor's performance in determining award fee earned under this contract.

2. General

This contract provides for a base fee as described in Article B.4 of the contract plus an award fee of up to 3.448% in addition to the base fee of the total estimated cost of the contract. The contractor is guaranteed the base fee, but must earn all or part of the award fee based on evaluations of performance. The total amount of award fee available in each evaluation period is discussed below in Paragraph 4. The amount of award fee earned in the evaluation period is based on the evaluation of the contractor's performance in each of the award fee criteria described in this plan.

3. Award Fee Personnel

The Award Fee process will be conducted by the following personnel:

a. Fee Determination Official - This is the individual who reviews the recommendation of the Performance Evaluation Board (see below) and makes the final determination of the award fee.

b. Performance Evaluation Board (PEB) - This is the group of Government officials, including a Chairperson and Executive Secretary, who will perform the indepth review of all aspects of Contractor performance and recommend an appropriate fee to the Fee Determination Official.

c. Evaluation Coordinator - This individual(s) is a Government official appointed to receive, code, validate, and assess Performance Monitor(s) reports which are summarized and presented to the PEB. These individuals will normally be the EPA Headquarters Project Officer(s).

d. Regional Coordinator - This individual is a Government official that will provide overall Regional coordination and review of the award process. These individuals will receive and summarize EPA Performance Monitor reviews and provide input to the Evaluation Coordinators.

e. EPA Performance Monitor - These individuals are Government employees designated to observe, assess, and report the performance of the contractor on a close, continuous, day-to-day basis. These individuals will normally be the Regional Primary Contacts who originate and administer work assignments.

f. Contractor Performance Monitor - The Contractor may assign his/her own performance monitor(s) to perform a similar role as the EPA Performance Monitor. The contractor assigns his/her own performance monitors who may submit self-evaluation performance work sheets at the end of each evaluation period.

4. Award Fee Pools

The following matrix demonstrates the schedule and award fee amounts available per period for the length of the contract:

Award Fee Period	Date Period Ends	Award Fee$ Available*
1	4 months after contract effective date	$104,898
2	8 months after contract effective date	104,898
3	12 months after contract effective date	104,898
4	- September 30, 1987 -	104,901
	Total Award Fee for Basic Period	$419,595

The following would be applicable if the option is exercised:

Award Fee Period	Date Period Ends	Award Fee$ Available*
5	- February 1, 1988	$103,729
6	- June 1, 1988	103,729
7	- October 1, 1988	103,729
8	- February 1, 1989	103,729
9	36 months after contract effective date	103,730
	Total Award Fee for Option Period	$518,646

The four-month performance evaluation periods provide adequate basis for evaluation; adequate time to compile, prepare and evaluate work assignment milestones; and minimal lapsed time between task performance and implementation of any desired changes in the contractor's performance.

* These amounts may increase if, and when, options for increments are exercised.

5. Award Fee Criteria

The contractor performance, including any and all subcontractors, for each award fee period will be evaluated in the following areas in order to determine the amount of award fee earned:

a. Technical

The contractor is expected to perform all Work Assignments in a competent and professional manner. This criterion relates to the manner in which the Work Assignment is approached as well as its ultimate disposition. The following examples illustrate the elements included in this criterion:

1) Appropriateness of technical approach to effective completion of work assignments.

2) Clarity and completeness of work plans on technical matters.

3) Understanding, defining, and prioritizing project or work assignment objectives.

4) Demonstrated understanding of CERCLA and RCRA regulations and procedures, and effectively utilizing available guidance materials and technical resource documents.

5) Substantiating assumptions and calculations.

6) Appropriateness of contractor personnel to accomplishment of project or work assignment objectives.

7) Soundness of technical recommendations.

8) Consistency in and ability to analyze and resolve technical issues.

b. Schedule

This criterion addresses the contractor's ability to provide services on time and to implement all aspects of the project in a timely manner. The following examples illustrate this criterion:

1) Work Assignments completed on schedule.

2) Other ongoing projects not displaced in the schedule to accommodate a particular Work Assignment.

3) Adherence to and implementation of established work priorities.

4) Flexibility and quality of performance in emergency situations or in an environment of fluctuating priorities.

5) All support data and administrative documents submitted on schedule including progress, financial, and performance event reports.

6) All scheduled events, meetings, milestones, etc., were fulfilled.

c. Cost

This criterion reflects the contractor's ability to deliver products and services at represented cost. The Work Assignments and contractor's Work Plans will identify budgets. The contractor's cost performance as compared to the Work Plan budgets will serve as the basis for evaluation of this criterion. The following examples illustrate the types of considerations that will be made:

1) Actual costs and hours incurred versus work plan estimates.
2) Frequency and severity of cost overruns.
3) Cost management of subcontractors in the above areas.

d. Management

Under this criterion, the contractor's management and communication skills will be evaluated in responding to EPA requests and in fulfilling the requirements of the contract. The following examples illustrate the types of considerations that will be made in evaluating this criterion:

1) Timeliness of Work Plan submittals and acknowledgement of Work Assignment receipts.

2) Clarity and completeness of Work Plans leading to rapid approval.

3) Organization, editorial quality, legibility, and neatness of written or printed communications and reports.

4) Clarity and effectiveness of oral presentations.

5) Ability to work with others.

6) Dedication to project.

To calculate the net evaluation (+), (0), or (-) value for each performance event on EPA Form 1900-41B (see Exhibit 4) the Regional Coordinator multiplies the monitor's (+), (0), or (-) rank for each criterion by the following weighting factor for the criterion, to give weighted evaluation units:

(1) Criteria	=	(2) Weight	x	(3) Rating (+,0,-)	=	(4) Weighted Evaluation Units
1. Technical		35		________		___________
2. Schedule		25		________		___________
3. Cost		25		________		___________
4. Management		15		________		___________

(5) Net Evaluation for the Performance Event = the sign for the TOTAL of # (4)

The Regional Coordinator then sums the weighted evaluation units (column 4) to determine the net evaluation for the performance event. The sign (+), (0), or (-) of the net evaluation is considered to be the single evaluation rating for the performance event and is entered on EPA Form 1900-41B along with appropriate justifications.

Example:

(1) Criteria	=	(2) Weight	x	(3) Rating (+,0,-)	=	(4) Weighted Evaluation Units
1. Technical		35		+		+35
2. Schedule		25		-		-25
3. Cost		25		+		+25
4. Management		15		0		0
						+35

(5) Net Evaluation for the Performance Event = "+"

> [Weighted evaluation unit totals resulting in a (+) number have a (+) net evaluation; totals resulting in a (-) number have a (-) net evaluation; and totals of (0) have a (0) net evaluation.]

8. Scoring

The Performance Evaluation Board (PEB) will receive an evaluation package from the Evaluation Coorindator consisting of a summary of the above ratings and evaluation forms for each Work Assignment. Upon review, evaluation, and discussion of the information presented, the PEB will determine a composite score for each of the award fee criteria representing the overall performance of the contractor in each criteria for the period being evaluated. The following is the scoring system the PEB will employ in completing Exhibit 5, Performance Evaluation Board Worksheet:

Adjective	Score	Definition
Excellent	85%-100%	Far exceeds a satisfactory level of performance.
Good	60%-84%	Exceeds a satisfactory level of performance.
Acceptable	50%-59%	Performs at a satisfactory level.
Poor	20%-49%	Performs at a level below satisfactory.
Unacceptable	0-19%	Far below a satisfactory level of performance.

The PEB has the sole descretion to assign any score within the indivuidual score ranges determined to be appropriate.

9. Procedure

a. Performance Event

The Performance Event or event that will be evaluated, is the individual Work Assignment. Each Work Assignment will be evaluated against the four performance criteria discussed in Paragraph 5.

b. Forms

Attached to this Award Fee Plan are the following forms that will be used in the Award Fee Process:

Exhibit	EPA Form No.	Title
1	--	Contractor Performance Evaluation Worksheet
2	--	EPA Performance Evaluation Worksheet
3	1900-41A	CPAF Contract Summary of Significant Performance Observations
4	1900-41B	CPAF Contract Individual Performance Event
5	--	Performance Evaluation Board Worksheet

c. Process

1) The Contractor's Monitors may:

- Submit self-evaluation reports with appropriate justification and documented unresolved evaluation problems or discrepencies to the appropriate EPA Performance Monitor and/or Regional Coordinator. The contractor's monitor will complete the Exhibit 1 Worksheet to prepare his self evaluation report and shall score himself in accordance with the scoring system defined in Paragraph 7. (When an evaluation discrepancy occurs, the contractor's monitor and the EPA monitor will prepare a joint discrepancy report explaining the discrepancy in detail in a format agreeable to both monitors. This report should include the nature of the discrepancy, what was expected to occur, what actually did occur, and how it can be corrected). All contractor reports (Exhibit 1) must be signed and submitted to the EPA Performance Monitor within five working days after the end of the evaluation period.

2) EPA Performance Monitors will:

- Evaluate contractor performance against the performance criteria for each performance event completed during the evaluation period. The contractor shall be scored in accordance with the scoring system defined in Paragraph 7.
- Receive contractor self-evaluation reports and compare with EPA scores.
- Sign and submit a separate Exhibit 2 Worksheet, with appropriate justifications, and the contractor's Worksheet (Exhibit 1) for each performance event to the cognizant Regional Coordinator.
- Document and report to the Regional Coordinator any unresolved evaluation problems or discrepancies and assure that discrepancy reports are prepared on time.

3) The Regional Coordinators will:

- Receive and review a separate EPA Worksheet (Exhibit 2) for each performance event, assuring that all (+) or (-) scores are adequately substantiated.

- Receive and review contractor self-evaluation reports (Contractor's Worksheet - Exhibit 1).
- Meet with the contractor representative to resolve any discrepancies between the EPA and the contractor evaluations. The Regional Coordinators and the contractor representative shall enter any appropriate changes in the evaluation on the worksheets. If the change is significant (involves a + or - ranking) the change must be justified on the appropriate Worksheet.
- Calculate a single performance evaluation rank of (+), (0), or (-) for each performance event and enter this value as the monitors evaluation on EPA Form 1900-41B (Exhibit 4).
- Sign all EPA and Contractor Worksheets (Exhibit 1 and 2).
- Prepare and sign all EPA Form 1900-41Bs (Exhibit 4).
- Prepare and send to the Evaluation Coordinator a summary report discussing the following items:
    1) An overall summary of the contractors's performance.
    2) Significant improvements or deficiencies in the contractor's performance since the previous evaluation period.
    3) The nature of any unresolved discrepancies, the resolution actions taken and the results. The joint discrepancy report signed by the EPA monitor and contractor liaison should be attached to this summary.
- Send all EPA and Contractor Worksheets, all EPA Form 1900-41Bs and the summary report to the Evaluation Coordinator within 16 calendar days after the end of the evaluation period.

4) The Evaluation Coordinator (EC) will:

- Receive Worksheets, Form 1900-41Bs, and summary reports from the Regional Coordinators.
- Organize Worksheets, Form 1900-41Bs and summary reports according to EPA Regions and Headquarters, and work assignment number.

- Prepare separate summaries for each performance evaluation criteria. The summaries shall be prepared on EPA Form 1900-41A, Summary of Signficant Performance Observation, (Exhibit 3).

- Prepare an evaluation package for the Performance Evaluation Board (PEB). The package shall consist of:

  a) EPA Form 1900-41As,

  b) EPA Form 1900-41Bs,

  c) Evaluation Worksheets,

  d) Summary Reports,

  e) A recommended scoring summary on the Exhibit 5 form,

  f) A calculated recommended award fee based on the score, as derived from Exhibit 5, and

  g) A PEB meeting agenda.

  This package shall be delivered to PEB members at least 5 calendar days prior to the meeting of the Board.

- Present a briefing on the evaluation data to the Chairman of the PEB prior to the meeting.

- Present a briefing on the evaluation data to the PEB at its meeting.

- Present a debriefing to the contractor, on request.

5) The Performance Evaluation Board (PEB) will:

- Receive and review evaluation materials forwarded by the Evaluation Coordinator.

- Meet within 30 calendar days of the end of the evaluation period to review the EC's recommended award fee criteria scores, percent and dollar amount of available award fee earned for performance during the evaluation period.

- Determine award fee criteria scores.

- Determine the recommended award fee to be sent to the Fee Determination Official.

- Provide guidance to the Evaluation Coordinator regarding resolution of unresolved evaluation problems.

The Board may:

- Modify, with appropriate justification, any evaluation procedure or calculation.
- Adjust award fee scores as it deems necessary.
- Recommend to Contracting Officer that Award Fee Criteria weightings be adjusted to redirect performance emphasis.

The Secretary of the PEB will:

- Prepare a report for the Chairman's signature to the Fee Determination Official of the actions of the Board, including the Board's recommendation for percent of available award fee earned.
- Transmit copies of the report to the contracting Officer (CO), to the EC, and the Regional Coordinators.
- Prepare minutes of the PEB meetings to sent to the CO.

10. Determination of Award Fee

All of the scoring, evaluation forms and recommendations developed under this Award Fee Plan will serve as tools for the Fee Determination Official to use in making the decision for the amount of award fee. Although the Fee Determination Official (FDO) will strongly consider the information presented by the PEB, it should be noted that the FDO is not bound in any way by any of the scoring, evaluation forms, or recommendations provided.

Exhibit 1

PERFORMANCE EVALUATION WORKSHEET

Contractor Performance Monitor

TITLE				Contractor or Responsible Su
Assignment No.	Hours Eval.	Evaluation Period		Signatures:
		from	to	
				Contractor
Milestones Evaluated				Regional Coordinator
				EPA Monitor

Performance Criteria	Performance Rating *	Rating Justification
A. Technical 35%		
B. Schedule 25%		
C. Cost 25%		
D. Management 15%		

* (+) = superior
(0) = satisfactory
(-) = substandard

Exhibit 2

PERFORMANCE EVALUATION WORKSHEET

EPA Performance Monitor

TITLE				Contractor or Responsible Su
Assignment No.	Hours Eval.	Evaluation Period		Signatures:
		from	to	Contractor
Milestones Evaluated				Regional Coordinator
				EPA Monitor

Performance Criteria	Performance Rating *	Rating Justification
A. Technical 35%		
B. Schedule 25%		
C. Cost 25%		
D. Management 15%		

* (+) = superior
(0) = satisfactory
(-) = substandard

Exhibit 3

CPAF CONTRACT SUMMATION OF SIGNIFICANT PERFORMANCE OBSERVATION

CONTRACT NO. DATE

EVALUATION PERIOD EVALUATION COORDINATOR

PERFORMANCE EVALUATION CATAGORY

OBSERVATION NUMBER	PO ASSESSMENT				SIGNIFICANT PERFORMANCE OBSERVATION CONSIDERED
	CONTRACTOR	MONITOR	COORDINATOR	PEB	

EPA 1900-41A (12-76)

Exhibit -

CPAF CONTRACT INDIVIDUAL PERFORMANCE EVENT

CONTRACT NO. | CONTRACTOR | TASK ORDER NO.

REPORTING ELEMENT | DATE(S) OF REPORTED EVENT

PERFORMANCE EVALUATION CATEGORY

WAS CONTRACTOR NOTIFIED? ☐ YES ☐ NO BY WHOM? WHEN?

DESCRIPTION OF PERFORMANCE EVENT

+, 0, OR - | SIGNATURE OF MONITOR | DATE

COORDINATOR'S ASSESSMENT

+, 0, OR - | SIGNATURE OF COODINATOR | DATE

EPA Form 1900-41B (Rev. 6-79) PREVIOUS EDITION MAY BE USED

Exhibit 5
Attachment E

Performance Evaluation Board Worksheet

Overall Evaluation for Period ____

Criteria	Weight	Score		Award Fee $ Available		Earned Award Fee
1. Technical	_____	_____	X	$_____	=	$_____
2. Schedule	_____	_____	X	_____	=	_____
3. Cost	_____	_____	X	_____	=	_____
4. Management	_____	_____	X	_____	=	_____
		TOTALS		$_____		$_____
	Percent of Award Fee Earned					_____%

NOTE: Weight times the total amount of award fee available for any given period equals the amount of award fee available for each individual criterion.

Enclosure 3

E. IRONMENTAL PROTECTION AG .CY
Technical Enforcement Support at Hazardous Waste Sites

APPROPRIATION: ☒ CERCLA ☐ RCRA ☐ Other
Funding Acct No. ______

TES NO. III
Contract No. 68-01-7331
Prime Contractor Name C D M

WORK ASSIGNMENT NO. 540
☒ Original
☐ Amendment No
Priority XX Normal ☐ Expedite* ☐ Emergency*

SITE FACILITY: Westinghouse Sites
or Project Name
Bloomington — Site/Facility Location (City or County)
IN — State
V — Region HQ
NPL Site ☒ Final or Proposed List ☐ No
Site Acct # 5P *
SCAP Activity Link 131
RCRA Facility ☐ Yes ☐ No Facility ID# ______

PURPOSE:
☒ Initiate New Work Assignment ☐ Work Plan Approval** ☐ Disapprove Work Plan (Contractor will immediately stop work)
☐ Work Plan Revision: (☐ SOW ☐ Cost/Hours) ☐ Closeout Work Assignment (All final deliverables received)

STATEMENT OF WORK SUMMARY (SOW) (Attach a *Detailed* SOW) (See Reporting Requirements)
Task Type Communication Relations Implementation Task No 99
(Must identify task type and number according to TES User's Guide to show activity is within the overall TES contract SOW)
Summary Comments: See Attached

BASE PERIOD	LOE	Cost/Fee	**OPTION PERIOD** (Authorized only if contract option is exercised)	LOE	Cost/Fee
Previously Approved	0	0	Previously Approved	0	0
This Action	250	$13,250	This Action	429	$22,737
Total	250	13,250	Total	429	22,737

PERIOD OF PERFORMANCE
From: Effective date below
To: 9/30/87
(closeout date not to exceed September 30, 1987)

PERIOD OF PERFORMANCE
From: 10/11/87
To: 9/30/88 (Closeout date)

TES II: Use Option Column
TES III & IV: Base period ends 9/30/87. Any work required after that date should appear in option column

(Do not include clerical or Expert Witness hours in the LOE estimate. Expert Witness costs are considered "Other Direct Costs." Estimate the Expert Witness hours in the attached Scope of Work.)

No. of Pages to Follow (Including SOW) 3
Reference Info.: ☒ Attached ☐ Transmitted Separately ☐ Pickup From ______

REPORTING REQUIREMENTS: ☐ Briefing(s) ☐ Letter Report ☒ Draft Report ☒ Final Report*** ☐ Other
Deliverables are to be marked ENFORCEMENT CONFIDENTIAL: ☒ Yes ☐ No
Reporting requirements and deliverables may differ for each TES contract. Include in the SOW a schedule for deliverables. If the number of reports required for your deliverables differs from the contract's normal requirement, request that in your SOW.

INITIATOR: Art Gaisor
Primary Contact
Date ______
Office of Public Affairs
Address
Phone no (312) 886-6128
FTS Off-NET

CONCURRENCE: Fred Norling
Fred Norling
Regional Contact
5/29/87
Date

APPROVAL: Linda N Stewart
Project Officer (HQ TES P.O.)
6/15/87
Date

Contracting Officer
6/17/87
Date
(Effective Date)

CONTRACTOR ACKNOWLEDGEMENT OF RECEIPT:

______ Signature and Title
______ Date

*Justification required in comment section **Required within 45 days of effective date or work stops ***30 day minimum required between draft and final report

Revised March 1, 1987

Sheet 1 White – Contracting Officer Copy (Washington, D.C.), Sheet 2 Green – Project Office Copy (Washington, D.C.), Sheet 3 Canary – Contractor Copy
Sheet 4 Pink – Acknowledge Copy, Sheet 5 Goldenrod – Finance Office RTP, Photocopies to: Regional Contact, Primary Contact, and Regional Coordinator

WA # 540

Statement of Work
Community Relations Implementation

LEMON LANE LANDFILL
Bloomington, IN

This statement of work is for community implementation work at all the Bloomington, IN sites that include in addition to Lemon Lane - Neals Landfill, Winston-Thomas Sewage Treatment Plant, Anderson Road Landfill, Neal's Dump, and Bennett's Dump. (29, 39, 4M, 4N, 38, 51, El site spill I.D. # respectively)

1. INTRODUCTION AND BACKGROUND

On May 20, 1985, a Consent Decree was lodged with the U.S. District Court for the Southern District of Indiana requiring Westinghouse Electric Corporation to remove and properly dispose of PCB-contaminated material from six sites in or near Bloomington, Indiana. Parties to the Consent Decree in addition to Westinghouse are the U.S. Environmental Protection Agency (EPA), the Indiana Department of Environmental Management (IDEM), formerly the Indiana State Board of Health (ISBH) and Monroe County. Implementation of this decree began on August 22, 1985.

Four of the six Bloomington sites are included on EPA's National Priorities List of sites targeted for cleanup under CERCLA: Neal's Landfill, Neal's Dump, Lemon Lane Landfill and Bennett's Stone Quarry. The other two sites are the Winston-Thomas Sewage Treatment Plant, an inactive plant owned by the City of Bloomington, and the Anderson Road Landfill. The Consent Decree requires Westinghouse to excavate and remove from these sites an estimated 650,000 cubic yards of PCB-contaminated soils, sludge, solid waste, and stream sediments and to incinerate these materials in a high-temperature incinerator.

The various parties to this decree all have responsibilities to ensure that cleanup activities are conducted effectively, safely and within the described schedule. The primary responsibility for financing and conducting cleanup activities, however, rests with the Westinghouse Electric Corporation. Work must be completed in 15 years. U.S. EPA Region V has the Community Relations lead.

2. This work will enable us EPA Region 5 to fulfill its role as the lead for community relations following EPA's CERCLA Community Relations guidance and the Superfund Amendments and Reauthorization Act 1986.

This work will allow Community Relations to support and aid EPA's Technical staff to comply with the oversight outlined in the Decree and its role in reviewing the Air permit and issuing the HSWA permit (jointly with the State of IN) and TSCA permit for the incinerator.

WA #540

3. The contractor will provide the following support:

   A. Develop and print four fact sheets on the Roles and Responsibilities of the Agencies involved, Incineration, Health effects of PCB's and Questions and Answers about the project.

   B. Provide a meeting facilitator for group discussions about Community Relations needs (group members will be representatives of various interest groups.)

   C. Provide outside technical experts to address Community questions of a generic nature about the incineration process.

   D. Provide staff to update and inventory the main repository at the Monroe County Library.

   E. Develop and print one page updates as needed that outline the status of work on the project.

   F. Develop graphic support for public meetings that includes charts, slides and overheads that explain incineration, the chemistry of PCB's, local geology, site compositions, project truck routes and agency permit processes.

   G. Purchase subscriptions to local daily and Sunday newspapers and Ads for public meetings.

   H. Assist in development of responsiveness summaries for comment received on permit applications, incuding providing a court reporter for public meetings.

4. A. Deliverable of Fact Sheets will be 8 drafts copies and 1000 final copies. *

   B. Deliverable for meeting facilitation will be draft agenda and pre-meeting conference and final will be facilitated meeting and written meeting record.

   C. Deliverable of the technical expert will be arranging for such an expert to be available at designated meetings in Bloomington.

   D. Deliverable of update will be a written repository inventory.

   E. Deliverables of updates will be 8 draft copies and 200 folded finals.

   F. Deliverable of graphics will be draft and final product for use at a public meeting.

   G. Deliverable of subscriptions and ads will be papers arriving in the Region 5 Office of Public Affairs.

   H. Deliverable will be 8 draft copies of a responsiveness summary and 50 final copies.

* within limitations of Article H.2 of the contract

WH #540

5. The schedule for these task is as follows:

Base period activities such as two fact sheets, one update, providing a technical expert and facilitating a meeting will be completed no later than November 30, 1987. Option period activities include 2 additional fact sheets, repository inventory, paper subscriptions and possible public meeting support. It may also include additional updates and facilitated meetings.

Summer 1987 to September 30, 1987 - draft and final of the roles and responsibilities fact sheet and provide a facilitator for a group meeting.

Fall 1987 to November 30, 1987 - draft and final of the Question and Answer fact sheet, first update to summarize interim field work, provide Technical expert for meeting, begin repository inventory, and possible second facilitated meeting.

Winter 1987 to March 15, 1988 - draft and final of Health effects of PCB's, fact sheet final of inventory, subscribe to local, daily and Sunday papers, possible facilitated meeting.

Spring 1988 - draft and final of site incinerator fact sheet, update of technical work, draft and final of responsiveness summary and meeting support. These may be need sooner but unknown due to the need to key them to technical milestones.

6. It is anticipated that the contractor will travel 3 times to Bloomington to facilitate meetings. These are anticipated to be combined with an EPA staff meeting in Bloomington or Chicago. Some of these meeting may require two contractor staff memebers. It is anticipated the technical expert will travel to Bloomington at least once but not more than three times.

7. The anticipated level of effort to complete the tasks in this SOW is 679 and the contract runs until September 1988.

PERIOD OF PERFORMANCE: 6-1-87/9-30-88
LOE HOURS: 679
CONTRACT: TES III

Contact: Arthur Gasior
FTS 886-6128

EN RONMENTAL PROTEC Enclosure 4
Technical Enforcement Support at Ha

APPROPRIATION: ☐ CERCLA
☐ RCRA
☐ Other
Funding Acct. No. ____

TES NO. ____
Contract No. ____
Prime Contractor Name ____

WORK ASSIGNMENT NO. ____
☐ Original
☐ Amendment No ____
Priority ☑ Normal ☐ Expedite* ☐ Emergency*

SITE/FACILITY: ____ or Project Name
____ Site/Facility Location (City or County) ____ State ____ Region/HQ
NPL Site: ☐ Final or Proposed List ☐ No
Site Acct. #: ____ SCAP Activity Link: ____
RCRA Facility: ☐ Yes ☐ No Facility ID# ____

PURPOSE:
☒ Initiate New Work Assignment ☐ Work Plan Approval** ☐ Disapprove Work Plan (Contractor will immediately stop work)
☐ Work Plan Revision: (☐ SOW ☐ Cost/Hours) ☐ Closeout Work Assignment (All final deliverables received)

STATEMENT OF WORK SUMMARY (SOW) (Attach a *Detailed* SOW) (See Reporting Requirements):
Task Type ____ Task No.: ____
(Must identify task type and number according to TES User's Guide to show activity is within the overall TES contract SOW)
Summary/Comments:

BASE PERIOD			**OPTION PERIOD** (Authorized only if contract option is exercised)			TES II: Use Option Column TES III & IV: Base period ends 9/30/87. Any work required after that date should appear in option column
	LOE	Cost/Fee		LOE	Cost/Fee	
Previously Approved	____	____	Previously Approved	____	____	
This Action	____	____	This Action	____	____	
Total	____	____	Total	____		
PERIOD OF PERFORMANCE			**PERIOD OF PERFORMANCE**			
From: Effective date below			From: ____			
To: ____ (closeout date not to exceed September 30, 1987)			To: ____ (Closeout date)			

(Do not include clerical or Expert Witness hours in the LOE estimate. Expert Witness costs are considered "Other Direct Costs." Estimate the Expert Witness hours in the attached Scope of Work.)

No. of Pages to Follow ____
(Including SOW)
Reference Info.: ☐ Attached ☐ Transmitted Separately ☐ Pickup From ____

REPORTING REQUIREMENTS: ☑ Briefing(s) ☐ Letter Report ☑ Draft Report ☑ Final Report*** ☐ Other
Deliverables are to be marked ENFORCEMENT CONFIDENTIAL: ☐ Yes ☐ No
Reporting requirements and deliverables may differ for each TES contract. Include in the SOW a schedule for deliverables. If the number of reports required for your deliverables differs from the contract's normal requirement, request that in your SOW.

INITIATOR: ____ Primary Contact ____ Date
____ Address
Phone no. 475 ____ FTS 311 ____ Off-NET

CONCURRENCE: ____ Regional Contact ____ Date

APPROVAL: ____ Project Officer (HQ TES P.O.) ____ Date
____ Contracting Officer 9/17/87 Date (Effective Date)

CONTRACTOR ACKNOWLEDGEMENT OF RECEIPT:
____ Signature and Title
Jonathan G. Curtis
Senior Vice President
OCT 02 1987 Date

*Justification required in comment section **Required within 45 days of effective date or work stops. ***30 day minimum required between draft and final report

Revised: March 1, 1987
Sheet 1 White – Contracting Officer Copy (Washington, D.C.), Sheet 2 Green – Project Office Copy (Washington, D.C.), Sheet 3 Canary – Contractor Copy
Sheet 4 Pink – Acknowledge Copy, Sheet 5 Goldenrod – Finance Office/RTP, Photocopies to: Regional Contact, Primary Contact, and Regional Coordinator

Attachment A - Exhibit A Continued

Team Subcontractors Cost Estimate

8.0 COST ESTIMATE OPTION YEAR 1 DATE 14 Oct-97

CONTRACTOR: BOOZ, ALLEN & HAMILTON
CONTRACTOR LOCATION: BETHESDA, MARYLAND

TES III PROJECT
EPA # 68 01 7[illegible]1

WORK ASSIGNMENT NO. 659
WORK ASSIGMENT SITE NAME: N/A

8.1 LABOR	HOURS	TOTAL $
PROFESSIONAL LEVEL 4	3	
PROFESSIONAL LEVEL 3	7[illegible]	
PROFESSIONAL LEVEL 2	[illegible]	
PROFESSIONAL LEVEL 1	2[illegible]1	
TECHNICAL LEVEL 3	6[illegible]	
TOTAL LOE	405	$5,832
CLERICAL	40	$411
TOTAL RAW LABOR		$6,243
8.2 FRINGE BENEFITS (SEE 8.6)		
8.3 OVERHEAD (SEE 8.6)		
8.4 TRAVEL		$250
8.5 ODCs		$645
SUBTOTAL		$7,138
8.6 INDIRECT COSTS		$7,11[illegible]
TOTAL COSTS		$14,2[illegible]
8.7 FEE		$1,1[illegible]
8.8 TOTAL WORK ASSIGNMENT	659	$15,3[illegible]

T659-R00-WP-BEPL-1

OFFICE OF WASTE PROGRAMS ENFORCEMENT

RCRA BUDGET MODEL SUPPORT

WORK PLAN

RECEIVED
OCT 19 1987

Prepared for

U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Waste Programs Enforcement
Washington, D.C. 20460

ORIGINAL

Work Assignment No. : 659
EPA Region : HQ
Site No. : N/A
Date Prepared : October 14, 1987
Contract No. : 68-01-7331
Booz, Allen Project No. : 11275-002-659
Prepared By : Booz, Allen & Hamilton Inc.

WA Project Manager : David W. Smith
Telephone No. : (301) 469-3261
EPA Primary Contact : Jay Smith
Telephone No. : (202) 475-8391

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1.0 INTRODUCTION

This Work Plan describes the approach Booz, Allen & Hamilton Inc. will take to support the operation and interpretation of the RCRA Enforcement Budget Development Model and the RCRA Correction Action Budget Development Model. Booz, Allen will continue the refinement of the existing Models, examine and assess the the various assumptions used in them, provide analytic support in interpreting the Models' results, and develop presentations based on the Models' outputs. This approach has been presented orally to the EPA Primary Contact, Mr. Jay Smith, (202) 475-8391, and he concurs with it.

1.1 Background

The Office of Waste Programs Enforcement (OWPE) is responsible for managing EPA's enforcement, compliance monitoring and correction action activities under the Resource Conservation and Recovery Act (RCRA). The RCRA Enforcement Budget Development Model, encompassing enforcement and compliance monitoring activities, and the RCRA Corrective Action Budget Development Model were developed by OWPE, with support from Booz, Allen. They are automated models that provide a detailed forecast of the resources, in terms of FTE and extramural dollars, required to implement the enforcement, compliance monitoring and corrective action programs under RCRA. In addition to providing the basis for estimating these resource requirements, they provide a framework for testing proposed activity pricing factors and for projecting future resource demands.

1.2 Statement of Work

The purposes of this work assignment are to refine the Models' structure and functioning and to support OWPE in interpreting and presenting the Models' results. Detailed documentation of both Models will be developed to provide an orientation to their operation, a description of the methodologies used and a summary of the Models' reports. In addition to these activities, Booz, Allen will provide analytic and graphics support to OWPE budget staff as needed to interpret the Models' results and present those results to decision-makers within the Agency, in the Office of Management and Budget, and in Congress.

1.3 Conflict of Interest

Based on our review and understanding of the legal requirements of this work, Booz, Allen certifies that it has no known corporate or individual conflicts of interest with respect to this task. We understand our professional obligation to ensure that the staff assigned to this work understand the legal implications of these conflict of interest requirements and have no such conflicts.

2.0 PROJECT APPROACH

This section of this Work Plan describes in detail the approach Booz, Allen will use to accomplish the goals of this Work Assignment. It describes the individual activities required and the deliverables that will be developed.

2.1 Activities

There are three major activities that will be required to accomplish the goals of this project. Each of these is discussed below.

Activity 1 -- Support Presentation of Model Results

OWPE is responsible for producing numerous briefing packages to support presentation of its budget requests to the Assistant Administrator for Solid Waste and Emergency Response, the EPA Administrator, the Office of Management and Budget, and the Congress. On an ongoing basis, Booz, Allen will support the preparation of briefing packages including graphic presentations depicting RCRA enforcement resource levels, in terms of FTE and extramural dollars, and distributions developed by the Models. In addition, Booz, Allen will aid the development of textual analyses of the assumptions underlying the Models and the operational structure of the Models. In support of these efforts, Booz, Allen will meet with OWPE staff to define their specific requirements, provide draft copies of the materials needed, and based on OWPE comments, develop camera-ready graphics on an as needed basis over the course of this Work Assignment.

Activity 2 -- Develop Model Documentation

Booz, Allen will develop a package of explanatory materials to support the RCPA Budget Models. These materials will include an orientation to the operation of the Models, descriptions of the activity flow used by the Models, the assumptions required for the Models' operation, the source-data and input procedures, and the available output reports. A preliminary draft of this package will be delivered to OWPE budget staff, and based on their comments, a final package will be developed and delivered to the EPA Primary Contact.

Activity 3 -- Budget Analytical Support

OWPE is responsible for developing budget assumptions regarding the duration and frequency of major enforcement activities. Booz, Allen will assist OWPE with analyses needed to revise existing Model assumptions and develop new assumptions, by developing analytical tools from existing Headquarters and regional data bases, such as

HWDMS. Based on those revised assumptions, Booz, Allen will make any necessary changes to the Models and provide OWPE with revised copies of the model software.

2.2 Deliverables

There are two major deliverables that will be produced over the course of this project. They are listed below with their due dates. In addition, specific OWPE requests may result in the production of briefing packages, camera-ready graphics, and special analytical reports. These products will be scheduled separately based on OWPE needs.

Deliverable	CDM Due Date	EPA Due Date
Draft Documentation Package	December 1, 1987	December 8, 1987
Final Documentation Package	January 4, 1988	January 11, 1988

2.3 Outline of Deliverables

Draft and Final Doucumentation Packages

I. Introduction

II. Model Overview

III. Required Assumptions

IV. Data Extract and Input Procedures

V. Model Flow

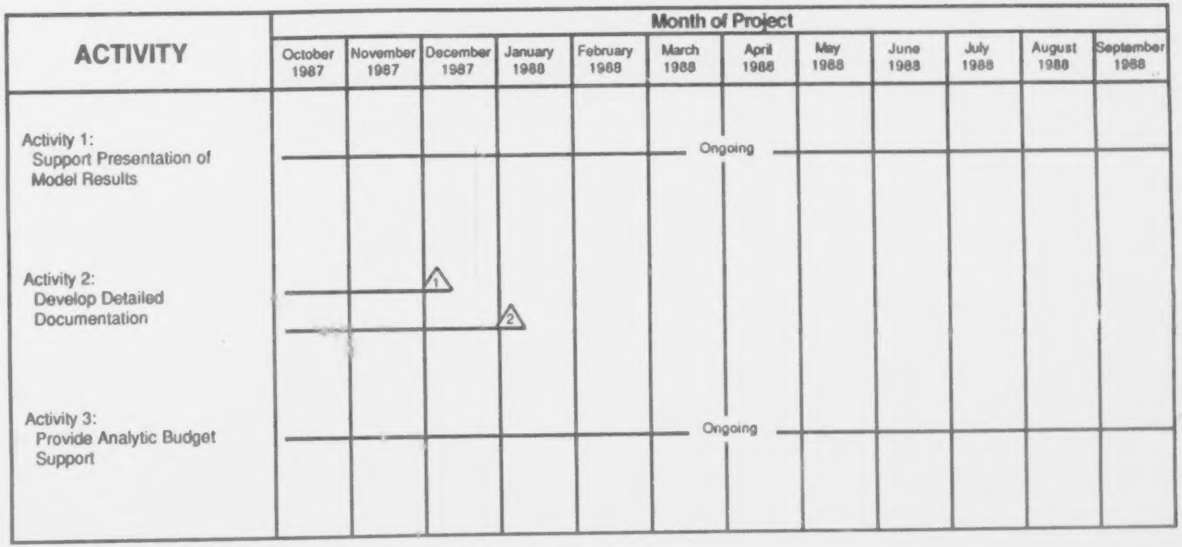
VI. Output Reports

3.0 WORK SCHEDULE

Exhibit I attached to this Work Plan portrays the work schedule for this project.

EXHIBIT I

U.S. ENVIRONMENTAL PROTECTION AGENCY OFFICE OF WASTE PROGRAMS ENFORCEMENT RCRA BUDGET MODEL SUPPORT WORK SCHEDULE



DELIVERABLES:

△1 ··· Draft Documentation Package
December 8, 1987

△2 ··· Final Documentation Package
January 11, 1988

4.0 PERSONNEL

Exhibit II attached to this Work Plan shows the staffing that Booz, Allen will use for this project.

EXHIBIT II

U.S. ENVIRONMENTAL PROCTECTION AGENCY OFFICE OF WASTE PROGRAMS ENFORCEMENT RCRA BUDGET MODEL SUPPORT PERSONNEL

Project Director

Heather L. Burns (P4)
Principal
(301) 469-3227

Project Manager

David W. Smith (P3)
Associate
(301) 469-3261

Jeffrey R. Pirkl (P1)
Consultant

Sherri E. Sutton (P1)
Technical Assistant

5.0 INTERVIEWS/SUBCONTRACTORS/CONSULTANTS

No interviews, subcontractors, or consultants are deemed necessary at this time. Should any be needed, the EPA Primary Contact shall be informed.

6.0 EXCEPTIONS TO THE ASSIGNMENT OR ANTICIPATED PROBLEMS

If during the performance of this Work Assignment, additional unforeseen work arises, or the assignment proves to be more complex than anticipated, Booz, Allen will contact the EPA Primary Contact to determine the need for additional LOE hours to complete the work.

7.0 QUALITY ASSURANCE

All Booz, Allen's work on this contract will be performed in accordance with Booz, Allen's Quality Assurance Program Plan, dated February 27, 1987. This QA Program Plan is in accordance with the CDM FPC Quality Assurance Program incorporated by reference in the TES III contract. Kerry Roche, Booz, Allen's QA Coordinator will maintain QA oversight throughout the duration of this assignment. This work plan has been reviewed for QA requirements by Lisa Laubgross, Booz, Allen's Associate QA Coordinator. Activities defined in this work plan may be the subject of a system audit conducted by the CDM FPC Quality Assurance staff to check on adherence to Booz, Allen's QA Program Plan. Such audit's results will be included in the appropriate Monthly Progress Report. A QA Project Plan is not required for this Work Assignment.

Lisa A Laubgross
QA of Work Plan Performed By:

Oct. 14, 1987
Date

8.0 COST ESTIMATE OPTION YEAR 1 DATE 11 [illegible]

CONTRACTOR: BOOZ, ALLEN & HAMILTON
CONTRACTOR LOCATION: BETHESDA, MARYLAND

THS [illegible]
EPA [illegible]

WORK ASSIGNMENT NO. 009
WORK ASSIGMENT SITE NAME: N/A

8.1 LABOR	HOURS	TOTAL $
PROFESSIONAL LEVEL 4	2	
PROFESSIONAL LEVEL 3	[illegible]	
PROFESSIONAL LEVEL 2	[illegible]	
PROFESSIONAL LEVEL 1	[illegible]	
TECHNICAL LEVEL 0	5[illegible]	
TOTAL LOE	[illegible]	$6,9[illegible]
CLERICAL	40	$411
TOTAL RAW LABOR		$6,34[illegible]
8.2 FRINGE BENEFITS (SEE 8.6)		
8.3 OVERHEAD (SEE 8.6)		
8.4 TRAVEL		[illegible]
8.5 ODCs		[illegible]
[illegible]		[illegible]
8.6 [illegible]		[illegible]
TOTAL [illegible]		[illegible]
8.7 FEE		[illegible]
8.8 TOTAL WORK ASSIGNMENT	[illegible]	$[illegible]

OPTION YEAR 1 ATTACHMENT A

2.4 TRAVEL

LOCAL TRAVEL	250
TOTAL TRAVEL	$250

2.5 OTHER DIRECT COSTS

REPRODUCTION	300
COMMUNICATIONS	170
MISCELLANEOUS	75
TOTAL ODCS	$545

SUBCONTRACTORS

TOTAL SUBCONTRACTORS	$0
TOTAL ODCS	$545

ENVIRONMENTAL PROTECTION AGENCY
Technical Enforcement Support at Hazardous Waste Sites

APPROPRIATION: ☐ CERCLA ☒ RCRA ☐ Other
Funding Acct. No. ____

TES NO. TES III
Contract No. 68 01 7331
Prime Contractor Name LDM

WORK ASSIGNMENT NO. 657
☒ Original
☐ Amendment No ____
Priority ☒ Normal ☐ Expedite* ☐ Emergency*

SITE/FACILITY: RCRA Work Load Model
or Project Name
Site/Facility Location (City or County) ____ State ____ Region/HQ HQ
NPL Site: ☐ Final or Proposed List ☐ No
Site Acct. #: ____ SCAP Activity Link: N/A
RCRA Facility: ☐ Yes ☐ No Facility ID# ____

PURPOSE:
☒ Initiate New Work Assignment ☐ Work Plan Approval** ☐ Disapprove Work Plan (Contractor will immediately stop work)
☐ Work Plan Revision: (☐ SOW ☐ Cost/Hours) ☐ Closeout Work Assignment (All final deliverables received)

STATEMENT OF WORK SUMMARY (SOW) (Attach a *Detailed* SOW) (See Reporting Requirements)
Task Type Budget Workload Model Task No.: 99
(Must identify task type and number according to TES User's Guide to show activity is within the overall TES contract SOW)
Summary/Comments: Prepare for FY90 RCRA Enforcement Budget
Scope of Work attached.

BASE PERIOD

	LOE	Cost/Fee
Previously Approved		
This Action		
Total		

PERIOD OF PERFORMANCE
From: Effective date below
To: 2
(closeout date not to exceed September 30, 1987)

OPTION PERIOD
(Authorized only if contract option is exercised)

	LOE	Cost/Fee
Previously Approved		
This Action	450	23,650
Total	450	23,850

PERIOD OF PERFORMANCE
From: 10-1-87
To: 9-10-88 (Closeout date)

TES II: Use Option Column
TES III & IV: Base period ends 9/30/87. Any work required after that date should appear in option column.

(Do not include clerical or Expert Witness hours in the LOE estimate. Expert Witness costs are considered "Other Direct Costs." Estimate the Expert Witness hours in the attached Scope of Work.)

No. of Pages to Follow (Including SOW) ____
Reference Info.: ☐ Attached ☐ Transmitted Separately ☐ Pickup From ____

REPORTING REQUIREMENTS: ☑ Briefing(s) ☐ Letter Report ☑ Draft Report ☑ Final Report*** ☐ Other
Deliverables are to be marked ENFORCEMENT CONFIDENTIAL: ☐ Yes ☐ No
Reporting requirements and deliverables may differ for each TES contract. Include in the SOW a schedule for deliverables. If the number of reports required for your deliverables differs from the contract's normal requirement, request that in your SOW.

INITIATOR: Jay Smith Jay Smith
Primary Contact
Date 9/6/87
401 M St. Washington D.C.
Address
Phone no. 475 (FTS) 8391 (Off-NET)

CONCURRENCE: ____
Regional Contact
Date ____

APPROVAL: Hans Waltz
Project Officer (HQ TES P.O.)
Date 9/17/87

Contracting Officer
Date 9/17/87
(Effective Date)

CONTRACTOR ACKNOWLEDGEMENT OF RECEIPT:

Signature and Title ____
Date ____

*Justification required in comment section. **Required within 45 days of effective date or work stops. ***30 day minimum required between draft and final report

Revised: March 1, 1987

Sheet 1 White – Contracting Officer Copy (Washington, D.C.), Sheet 2 Green – Project Office Copy (Washington, D.C.), Sheet 3 Canary – Contractor Copy
Sheet 4 Pink – Acknowledge Copy, Sheet 5 Goldenrod – Finance Office/RTP, Photocopies to: Regional Contact, Primary Contact, and Regional Coordinator

OFFICE OF WASTE PROGRAMS ENFORCEMENT

RCRA BUDGET MODEL SUPPORT

SCOPE OF WORK

TES III

EPA PRIMARY CONTACT: Jay Smith (OWPE)

The Office of Waste Programs Enforcement (OWPE) is responsible for preparing budgets for compliance monitoring, enforcement, and corrective action resources for the RCRA program. [redacted] OWPE has developed automated budget models that assist in the development of these budgets. These models allow OWPE to forecast the resources required for the different programs based on activity-output assumptions and staff-support pricing factors. OWPE continues to require contractor support to make revisions to the models, examine and assess the various assumptions used, and provide analytical presentations based on the model's results.

STATEMENT OF WORK

Contractor support is required for the following activities:

Activity 1: Support Presentation of Model Results

OWPE is responsible for producing numerous briefing packages to support presentation of its budget requests to the Assistant Administrator for Solid Waste and Emergency Response, the EPA Administrator, the Office of Management and Budget, and the Congress. These briefing packages include graphic presentations depicting the resource levels and distributions developed by the models. In addition, textual analyses of the assumptions underlying the models and the operational structure of the models are frequently required. The contractor will assist OWPE in the development and preparation of such briefing packages and textual analyses.

Activity 2: Develop Detailed Documentation

The contractor will develop a set of explanatory materials to document the models' structure and operation. This package will provide an orientation to the models' operation, a description of the methodologies used, and a summary of the information portrayed in the various reports that are available. A draft copy of documentation will delivered to OWPE staff and a final copy will be produced based on their comments.

Activity 3: Provide Budget Analytical Support

OWPE is also responsible for developing budget assumptions regarding the duration and frequency of major enforcement activities. The contractor will assist OWPE with analyses needed to revise existing model assumptions and develop new assumptions, by developing analytical tools from existing headquarters and regional data bases, such as HWDMS. Based on those revised assumptions, the contractor will make any necessary changes to the models and provide OWPE with revised copies of the model software.

PERIOD OF PERFORMANCE

10, 1, 1987 - September 30, 1988

LEVEL OF EFFORT

Option Year: 450 hours

Total LOE: 450 hours

Please type. Signatures and dates must app early on all copies. Please read instructions o reverse.

MAR 21 1988

United States Environmental Protection Agency
OWPE/Contracts Management Section (WH-527)
Washington, DC 20460

Technical Enforcement Support at Hazardous Waste Sites

1. Funding ☐ CERCLA ☒ RCRA ☐ Other

2. TES Number TES III

4. Work Assignment Number 659

3. Contract Number 68 01 7331

5. ☐ Original ☒ Amendment Number 1

6. Account Number *(for "Other")*

7. Prime Contractor Name CDM

8. Priority ☒ Normal ☐ Expedite* ☐ Emergency*

9. Site/Facility or Project Name RCRA Workload Model

10. Location *(City or County)*

11. State

12. Region/HQ HQ

13. EPA Site/Facility ID Number

14. NPL Site *(Final or Proposed List)* ☐ Yes ☐ No

15. RCRA Facility ☐ Yes ☐ No

16. CERCLA Only: FMS Site/Spill ID Number

17. CERCLIS OP Unit No.

18. CERCLIS/Event/Enforcement Activity/NSS 2101 1701 NSS

19. Purpose WP submitted 10-30-87

☐ Initiate New Work Assignment ☐ Work Plan Revision* ☐ Notification of a Change in WA Manager ☐ Cancel Work Assignment
☒ Work Plan Approval ☐ Revised Work Plan Approval ☐ Disapprove Work Plan (Contractor will immediately stop work)
☐ Work Assignment Revision ☐ Change Period of Performance* ☐ Close Out Work Assignment (All final deliverables received)

20. Statement of Work Summary (SOW) *(Attach a Detailed SOW) (See Reporting Requirements)*

21. Task Type (Must identify task type and number according to TES User's Guide to show activity is within the overall TES contract SOW) Budget Workload Model

22. Task Number 99

23. Summary/Contents

My mail was mislaid. The 45 day workplan approval timeframe lasped. This amendment is to approve that workplan.

24. Base Period	LOE	Cost/Fee	**25. Option Period**	LOE	Cost/Fee
Previously Approved			Previously Approved	450	23,850
This Action			This Action	0	- 5,614
Total			Total	450	18,236

26. Period of Performance		**Period of Performance**	
From	To	From	To
Effective date below (#41)		Effective date below (#41)	9-10-88
(closeout date not to exceed base period ending date)		(closeout date not to exceed contract end date)	

27. Number of Pages To Follow *(Including SOW)*

28. Reference Information ☐ Attached ☐ Transmitted Separately ☐ Pick Up From

29. Reporting Requirements ☐ Briefing(s) ☐ Letter Report ☐ Draft Report ☐ Final Report** ☐ Other

These deliverables will be treated as Enforcement Confidential unless otherwise specified.

30. Initiator: Work Assignment Manager *(WAM)* Jay Smith
Jay Smith

31. Address
S-269
Waterside Mall
401 M. St.
Washington, D.C. 20460

32. Date 3/16/88

33. Phone No. *(FTS)* 475-8391

34. Phone No. *(Off-Net)* 475-8391

35. Approval: Rgnl Proj Officer or HQPO *(RPO/PO)* Jean H. Wright, DPO

36. Address
HQ
WH-527

37. Date 3-16-88

38. Phone No. *(FTS)* 382-4103

39. Phone No. *(Off-Net)* (202)

40. Contracting Officer (CO) B J Kubecki

41. Date *(Effective Date)* 3/23/88

42. Contractor Acknowledgement of Receipt *(Signature and Title)*

43. Date

EPA Form 9100-1 (2-88)

*Justification requir comment section.
**30 day minimum re ed between draft and final report.

44. Copy Distrubution:
White - CO
Green - Contractor
Blue - Regional PO
Goldenrod - WA Manager
Photocopy - HQ PO

CDM Federal Programs Corporation

October 30, 1987

Bruce Bakaysa
Contracting Officer
U.S. Environmental Protection Agency
Fairchild Building
3rd Floor
Washington, D.C. 20460

PROJECT: EPA Contract No.: 68-01-7331

DOCUMENT NO.: T659-R00-EP-BFCA-1

SUBJECT: Work Plan for Work Assignment 659
Office of Waste Programs Enforcement
RCRA Budget Model Support

Dear Mr. Bakaysa:

Attached please find the Work Plan for Work Assignment 659.

Based on information received to date, we have determined that there are no organizational conflicts of interest, nor are there any personal conflicts of interest on the above Work Assignment.

The work plan is being sent to the primary contact for review in order to facilitate your providing us with written approval or disapproval within 15 calendar days. Section B.2.c. of our contract requires CDM Federal Programs Corporation (CDM FPC) to stop work on this work assignment if we have not received approval of the work plan within 45 days.

We claim the cost proposal and company financial information to be Business Confidential.

Very truly yours,

CDM Federal Programs Corporation

Donald Senovich

Donald Senovich
Vice President

MAK/sz

Attachment

cc: Hans Waetjen, EPA TES III Project Officer
Jay Smith, EPA Primary Contact, RCRA Region HQ
Ann Whitney, CDM Federal Programs Corp. Regional Coordinator (letter only)
Heather Burns, Booz Allen & Hamilton Inc. (letter only)

TAK9:65

13135 Lee Jackson Memorial Highway, Suite 200 Fairfax, VA 22033 703 968-0900

C M Federal Programs Corporation

OFFICE OF WASTE PROGRAMS ENFORCEMENT
RCRA BUDGET MODEL SUPPORT

FOR EPA TES III

WORK PLAN

Prepared for

U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Waste Programs Enforcement
Washington, D.C. 20460

Work Assignment No. : 659
EPA Region : HQ
Site No. : N/A
Contract No. : 68-01-7331
CDM Federal Programs Corporation Document No. : T659-R00-WP-BEPL-2
Prepared By : CDM Federal Programs Corporation
Telephone No. : (703) 968-0900
Date Prepared : October 30, 1987

Approved:

Harry P. Butler
Deputy Program Manager

Donald Senovich

Donald Senovich
Program Manager

October 28, 1987

BUSINESS CONFIDENTIAL

```
        CONTRACT PRICING PROPOSAL                  |      Office of Management and Budget
        (Research and Development)                 |           Approval No. 29-R0184
---------------------------------------------------------------------------------------------
This form is for use when (i) submission of costs or |Page No.:        |       No. of Pages:
pricing data is required and (ii) submission for the |                  |
Optional Form 99 is authorized by contracting officer.|       1          |                   3
-----------------------------------------------------|---------------------------------------
Name of Operator:                                    |Supplies and/or Services to be Furnished:
           CDM Federal Programs Corporation          |**OPTION PERIOD ONLY**
-----------------------------------------------------|OFFICE OF WASTE PROGRAMS
Home Office Address:                                 |ENFORCEMENT. RCRA BUDGET
           13135 Lee Jackson Memorial Highway        |MODEL SUPPORT
           Suite 200. Fairfax. VA 22033              |
-----------------------------------------------------|---------------------------------------
Division and Location(s) where work to be performed: |Total Proposal Amount: |Solicitation No.
Boston. MA. Fairfax. VA. Atlanta. GA and others      |               $18.236 | W.A. 659
-----------------------------------------------------|---------------------------------------
                    DETAIL DESCRIPTION OF COST ELEMENTS                     |  TOTAL COSTS
---------------------------------------------------------------------------------------------
 1. DIRECT LABOR:                           | EST HOURS | RATE/HOUR |  EST COST  |
--------------------------------------------|-----------|-----------|------------|
See Exhibit A    Prof. LOE Hours            |        45 |           |       $761 |
                 Support Hours              |         2 |           |        $15 |
                       TOTAL DIRECT LABOR   |///////////|///////////|////////////|         $776
----------------------------------------------------------------------------------|----------
 2. LABOR OVERHEAD:                         | O.H. RATE |  X BASE   |  EST COST  |
----------------------------------------------------------------------------------|
               Fringe Benefits                  34.10%|      $776 |       $265 |
               Overhead                         44.90%|    $1.041 |       $467 |
                     TOTAL LABOR OVERHEAD   |///////////|///////////|////////////|         $732
----------------------------------------------------------------------------------|----------
 3. SPECIAL TESTING:                                              |         $0 |           $0
 4. SPECIAL EQUIPMENT:                                            |         $0 |           $0
 5. TRAVEL:                                                       |            |
  a.  TRANSPORTATION                                              |         $0 |
  b.  PER DIEM SUBSISTENCE                                        |         $0 |
                                           TOTAL TRAVEL           |////////////|           $0
------------------------------------------------------------------|------------|-------------
 6. CONSULTANTS:                            LOE Hours             |            |
                                                                  |            |
   6a. BOOZ ALLEN & HAMILTON INC.             405.0      $15.395  |            |
                                                0.0           $0  |            |
   6b. Internal Subcontractor                   0.0           $0  |            |
        Total Team Subcontractors             405.0               |    $15.395 |
   6c. Pool Subcontractor                       0.0           $0  |         $0 |
                                                                  |            |
                                           TOTAL CONSULTANTS      |////////////|      $15.395
-------------------------------------------------------------------------------|-------------
 7. OTHER DIRECT COSTS          See Exhibit A                                  |         $310
-------------------------------------------------------------------------------|-------------
 8. TOTAL DIRECT COST AND OVERHEAD                                             |      $17.213
 9. GENERAL AND ADMINISTRATIVE EXPENSE      5.0% of Cost Items 1.2,3.4,5,6a,6c,7|         $861
                                            4.1% of Cost Item  6b              |           $0
                                                     TOTAL ESTIMATED COST      |      $18.074
-------------------------------------------------------------------------------|-------------
10. FEE OR PROFIT               See Exhibit A                                  |         $162
-------------------------------------------------------------------------------|-------------
11. TOTAL ESTIMATED COST AND FEE OR PROFIT                                     |      $18.236
---------------------------------------------------------------------------------------------
                                TOTAL LOE       450.0
```

BUSINESS
CONFIDENTIAL

EXHIBIT A - SUPPORTING SCHEDULE

1. Direct Labor

Category	Hours	Rate	Est. Cost
Professional 4	9.0	$25.27	$227
Professional 3	13.0	$18.84	$245
Professional 2	11.0	$14.16	$156
Professional 1	2.0	$11.64	$23
Technical 3	10.0	$10.96	$110
Professional Total	45.0		$761
Clerical	2.0	$7.35	$15
Support Total	2.0		$15
Direct Labor	47.0		$776

7. OTHER DIRECT COSTS

Photocopies/Prints	$100
Mail/Courier	$50
Supplies	$20
Telephone/Communications	$40
Computer	$80
Miscellaneous	$20
TOTAL ODCS	$310

10. FEE OR PROFIT

Base	$162
Award-	$0
TOTAL FEE	$162

CONTINUED ON NEXT PAGE

I. Has any Executive Agency of the United States government performed any review of your accounts or records in connection with any other government prime contract or subcontract within the past year?
X YES __ NO
Name and address of reviewing office and individual — Telephone No./Extension
USEPA, 150 Causeway St., Boston, MA. Mr. Arthur Pavlucik — (617)223-0940

II. Will you require the use of any government equipment in the performance of this proposed contract?
__ YES X NO

III. Do you require government contract financing to perform this proposed contract?
X YES __ NO (if yes, identify.): __ Advance pmts X Progress pmts __ Guaranteed loans

IV. Do you now hold any contract for the same or similar work called for by this contract?
X YES __ NO

V. Does this cost summary conform with the cost principles set forth in Agency regulations?
X YES __ NO

This proposal is submitted for use in conjunction with and in response to (Describe RFP, etc.)
Work Assignment No. 659
and reflects our best estimates as of this date.

TYPED NAME AND TITLE
Jonathan G. Curtis, Senior Vice President

SIGNATURE
Donald Senovich for

NAME OF FIRM
CDM Federal Programs Corporation

DATE OF SUBMISSION
OCT 3 0 1987

Please type. Signatures and dates must ap clearly on all copies. Please read Instructions e reverse. 10/03/88

EPA

United States Environmental Prote. n Agency
OWPE/Contracts Management Section (WH-527)
Washington, DC 20460

Technical Enforcement Support at Hazardous Waste Sites

OCT 5 1988

10/5

1. Funding: ☐ CERCLA ☒ RCRA ☐ Other
2. TES Number: TES III
3. Contract Number: 68 01 7331
4. Work Assignment Number: 659
5. ☐ Original ☒ Amendment Number 2
6. Account Number *(for "Other")*:
7. Prime Contractor Name: CDM
8. Priority: ☒ Normal ☐ Expedite* ☐ Emergency*
9. Site/Facility or Project Name: RCRA Workload Model
10. Location *(City or County)*:
11. State:
12. Region/HQ: HQ
13. EPA Site/Facility ID Number:
14. NPL Site *(Final or Proposed List)*: ☐ Yes ☐ No
15. RCRA Facility: ☐ Yes ☐ No
16. CERCLA Only: FMS Site/Spill ID Number:
17. CERCLIS OP Unit No.:
18. CERCLIS/Event/Enforcement Activity/NSS: 2101 , 1701 , NSS

19. Purpose

- ☐ Initiate New Work Assignment
- ☐ Work Plan Approval
- ☐ Work Assignment Revision
- ☐ Work Plan Revision*
- ☐ Revised Work Plan Approval
- ☐ Change Period of Performance*
- ☐ Notification of a Change in WA Manager
- ☐ Disapprove Work Plan (Contractor will immediately stop work)
- ☒ Close Out Work Assignment (All final deliverables received)
- ☐ Cancel Work Assignment

20. Statement of Work Summary (SOW) *(Attach a Detailed SOW) (See Reporting Requirements)*

21. Task Type (Must identify task type and number according to TES User's Guide toshow activity is within the overall TES contract SOW): Budget WorkLoad Model

22. Task Number: 99

23. Summary/Comments:

24. Base Period	LOE	Cost/Fee	25. Option Period	LOE	Cost/Fee
Previously Approved			Previously Approved	450	18,236
This Action			This Action	0	0
Total			Total	450	18,236

26. Period of Performance		Period of Performance	
From Effective date below (#41)	To	From Effective date below (#41)	To 9-10-88
(closeout date not to exceed base period ending date)		(closeout date not to exceed contract end date)	

27. Number of Pages To Follow *(Including SOW)*:
28. Reference Information: ☐ Attached ☐ Transmitted Seperately ☐ Pick Up From
29. Reporting Requirements: ☐ Briefing(s) ☐ Letter Report ☐ Draft Report ☐ Final Report** ☐ Other

These deliverables will be treated as Enforcement Confidential unless otherwise specified.

30. Initiator: Work Assignment Manager *(WAM)*: Jay Smith
Jay Smith
31. Address: S-269
Waterside Mall
401 M. ST
Washington, D.C.
32. Date: 9/30/88
33. Phone No. *(FTS)*: 475-8391
34. Phone No. *(Off-Net)*: 475-8391
35. Approval: Rgnl Proj Officer or HQPO *(RPO/PO)*: Jean H. Wright
36. Address: HQ
OS-510
37. Date: 9-30-88
38. Phone No. *(FTS)*: 475-7832
39. Phone No. *(Off-Net)*:
40. Contracting Officer (CO): BJ Kuberski
41. Date *(Effective Date)*: 10/11/88
42. Contractor Acknowledgement of Receipt *(Signature and Title)*:
43. Date:

EPA Form 9100-1 (2-88)

*Justification required in comment section.
**30 day minimum required between draft and final report.

44. Copy Distrubution:
White - CO
Green - Contractor
Blue - Regional PO
Goldenrod - WA Manager
Photocopy - HQ PO

ENVIRONMENTAL PROTEC Enclosure 5
Technical Enforcement Support at Hazardous Waste Sites

APPROPRIATION: ☐ CERCLA ☒ RCRA ☐ Other
Funding Acct. No. 8BJA77R0FD

TES NO. III
Contract No. 68-01-7331
Prime Contractor Name CDM

WORK ASSIGNMENT NO. 746
☒ Original
☐ Amendment No.
Priority: ☒ Normal ☐ Expedite* ☐ Emergency*

SITE/FACILITY: ____ or Project Name
Site/Facility Location (City or County) ____ State ____ Region/HQ HQ
NPL Site: ☐ Final or Proposed List ☐ No
Site Acct. #: ____ SCAP Activity Link: ____
RCRA Facility: ☐ Yes ☐ No Facility ID# ____

PURPOSE:
☒ Initiate New Work Assignment ☐ Work Plan Approval** ☐ Disapprove Work Plan (Contractor will immediately stop work)
☐ Work Plan Revision ☐ Revised WP Approval ☐ Closeout Work Assignment (All final deliverables received)

STATEMENT OF WORK SUMMARY (SOW) (Attach a *Detailed* SOW) (See Reporting Requirements):
Task Type Nonsuperfund Legal Enforcement Workload Model Support Task No. ____
(Must identify task type and number according to TES User's Guide to show activity is within the overall TES contract SOW)
Summary/Comments: Examine interdisciplinary (including RCRA) legal enforcement workload model assumptions and modify model components as needed.

BASE PERIOD	LOE	Cost/Fee	**OPTION PERIOD** HQ (Authorized only if contract option is exercised)	LOE	Cost/Fee
Previously Approved			Previously Approved		
This Action			This Action	400	16,000
Total			Total	400	16,000

PERIOD OF PERFORMANCE
From: Effective date below
To: ____
(closeout date not to exceed base period ending date)

PERIOD OF PERFORMANCE
From: Present
To: 9-30-88 (Closeout date)

TES II: Use Option Column
TES III & IV: Base period ends 9/30/87. Any work required after that date should appear in option column.

(Do not include clerical or Expert Witness hours in the LOE estimate. Expert Witness costs are considered "Other Direct Costs." Estimate the Expert Witness hours in the attached Scope of Work.)

No. of Pages to Follow (Including SOW) 2
Reference Info.: ☐ Attached ☐ Transmitted Separately ☐ Pickup From ____

REPORTING REQUIREMENTS: ☒ Briefing(s) ☐ Letter Report ☐ Draft Report ☐ Final Report*** ☒ Other
Deliverables are to be marked ENFORCEMENT CONFIDENTIAL: ☐ Yes ☒ No
Reporting requirements and deliverables may differ for each TES contract. Include in the SOW a schedule for deliverables. If the number of reports required for your deliverables differs from the contract's normal requirement, request that in your SOW.

Nancy Hunt
INITIATOR: Nancy Hunt (Rm. 104 NE Mall) Primary Contact
Date: October 14, 1987
Address: E.P.A. 401 St. S.W., Wash., D.C. 20460
Phone no. 475-8294 FTS Off-NET

CONCURRENCE: ____ Regional Contact
Date ____

APPROVAL: Hans Waitzen Project Officer (HQ TES P.O.)
Date 11/4/87

Contracting Officer
Date 11/20/87 (Effective Date)

CONTRACTOR ACKNOWLEDGEMENT OF RECEIPT:
____ Signature and Title
____ Date

*Justification required in comment section. **Required within 45 days of effective date or work stops. ***30 day minimum required between draft and final report.

Revised March 1, 1987
Sheet 1 White – Contracting Officer Copy (Washington, D.C.), Sheet 2 Green – Project Office Copy (Washington, D.C.), Sheet 3 Canary – Contractor Copy
Sheet 4 Pink – Acknowledge Copy, Sheet 5 Goldenrod – Finance Office/RTP, Photocopies to: Regional Contact, Primary Contact, and Regional Coordinator

SCOPE OF WORK

OFFICE OF ENFORCEMENT AND COMPLIANCE MONITORING

NON-SUPERFUND MODEL SUPPORT

BACKGROUND

The Management Operations Branch of the Office of Enforcement and Compliance Monitoring (OECM) is responsible for developing OECM budget submissions for Headquarters and regional legal enforcement resources, and for the distribution of regional resources. To facilitate this distribution of regional legal enforcement resources, OECM, with contractor assistance, has developed an automated workload distribution model for RCRA and other non-Superfund resources. The model, developed over the last two years, is based on numerous assumptions regarding regional output levels, and activity-pricing factors. Because of changes due to legislation, policy, and implementation experience related to RCRA and other non-Superfund statutes, the workload model assumptions need to be reviewed in order to ensure continued accuracy. The purpose of this work assignment is to conduct a thorough review of the existing non-Superfund legal enforcement workload model, develop modifications to that model as needed, and develop supporting materials and documentation.

SCOPE OF WORK

Contractor support is required for the following activities:

Activity 1: Examine Non-Superfund Workload Model Assumptions

The contractor will examine the existing non-Superfund workload distribution model assumptions and identify those areas where modifications are necessary to forecast more accurately regional legal enforcement resource needs. The contractor will then discuss these areas with OECM and Office of Regional Counsel staff to develop revised assumptions which will be presented to the Regional Counsels or a workgroup of their representatives. During this effort the contractor will work with the Office of General Counsel (OGC) staff to determine if OECM model assumptions are consistent with those being used for development of the OGC budget and to avoid duplication of workload items identified. The contractor will clearly define all workload activity categories to ensure consistency with program office technical enforcement categories and data sources where applicable.

WA # 612

The contractor will deliver a briefing on model areas requiring modification by January 9, 1988, and a final briefing on proposed model changes by February 15, 1988.

Activity 2: Revise Non-Superfund Model as Necessary

The contractor will revise the non-Superfund legal enforcement workload model as appropriate to reflect changes in its underlying assumptions. The contractor will also develop explanatory materials detailing the data needed, definitions of data elements, the model's operation, and the reports and tables that the model generates.

The contractor will deliver a final revised model by March 1, 1988, and explanatory materials by May 1, 1988,

DELIVERABLES

1) Briefing on model areas requiring modification due by January 9, 1988.

2) Briefing on final proposed model changes by February 15, 1988.

3) Final revised model produced on equipment compatible with OECM/MOB by March 1, 1988, including both printed copy and disk.

4) Documentation of model due by May 1, 1988.

PERIOD OF PERFORMANACE

Contract initiation date to September 30, 1988.

LEVEL OF EFFORT

400 Hours

Enclosure 6

AWARD/CONTRACT

---

1. CERTIFIED FOR NATIONAL DEFENSE UNDER BDSA REG 2 AND/OR DMS REG 1
1. RATING

---

2. CONTRACT NO
68-W8-0097

3. EFFECTIVE DATE
July 14, 1988

4. REQUISITION/PROJECT NO
W803934-A2

---

5. ISSUED BY Code

Environmental Protection Agency
OARM/IG/ADMIN SECTION (PM-214-F) F)
PROCUREMENT OPERATIONS BRANCH
WASHINGTON, DC 20460

6. ADMINISTERED BY Code
(If other than Item 5)

---

7. NAME AND ADDRESS OF CONTRACTOR
BOOZ-ALLEN & HAMILTON, INC.
4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814

Code: Facility:

8. DELIVERY
[ ] FOB ORIGIN
[X] OTHER (See below)

9. DISCOUNT FOR PROMPT PAYMENT
N/A

---

10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN ITEM 12

---

11 SHIP TO/MARK FOR Code:

If applicable,
see Section D
of the Schedule

12. PAYMENT WILL BE MADE BY
Code:
Environmental Protection Agency
Financial Mgmt. Div. (MD32)
Attn: Accounts Payable Br.
Research Triangle Pk, NC 27711

---

13 AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION
[ ] 10 U.S.C. 2304(c)( ) [ ] 41 U.S.C. 253 (c) ( )

---

14. ACCOUNTING AND APPROPRIATION DATA

C-1	6880200	AJ0052	BA4C51HOJ0	25.37	$52,200.00
C-1	6820X8145	SH0057	BTER51H700	25.37	$37,800.00

15A. ITEM NO.	15B. SUPPLIES/ SERVICES	15C. QUANTITY	15D. UNIT PRICE	15E. UNIT	15F. AMOUNT
	See Schedule				

APPROVED BY OIRM 3/84, FAR (48 CFR 53.214(c)) EXCEPTION TO STANDARD FORM 26

68-W8-0097

AWARD/CONTRACT

---

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PART IV - REPRESENTATIONS AND INSTRUCTIONS
- K REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

---

17. ☒ CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 4 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications as are attached or incorporated by reference herein. (Attachments are listed herein.)

18. ☐ AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number WA 87-A364, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the Items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.

19A. NAME AND TITLE OF SIGNER (Type or print) Vice President John C Newman	20A. NAME OF CONTRACTING OFFICER Thomas Beamer
19B. NAME OF CONTRACTOR by (Signature of person authorized to sign)	20B. UNITED STATES OF AMERICA by Thomas Beamer (Signature of Contracting Officer)
19C. DATE SIGNED 7/14/88	20C. DATE SIGNED 7/14/88

APPROVED BY OIRM 3/84, FAR (48 CFR 53.214(c)) EXCEPTION TO STANDARD FORM 26

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PART I - THE SCHEDULE

SECTION B - SUPPLIES OR SERVICES AND PRICE/COSTS

B.1 LEVEL OF EFFORT--COST-REIMBURSEMENT TERM CONTRACT (EPAAR 1552.212-70) (APR 1984)

(a) The Contractor shall perform all work and provide all required reports within the level of effort specified below. The Government will order 8,400 direct labor hours for the base period which represents the Government's best estimate of the level of effort required to fulfill these requirements.

(b) Direct labor includes personnel such as engineers, scientists, draftsmen, technicians, statisticians, and programmers and not support personnel such as company management, typists, and key punch operators even though such support personnel are normally treated as direct labor by the Contractor. The level of effort specified in paragraph (a) includes Contractor, subcontractor, and consultant labor hours.

(c) If the Contractor provides less than 90 percent of the level of effort specified for the base period or any optional period ordered, an equitable downward adjustment of the fixed fee, if any, for that period will be made. The Government may require the Contractor to provide additional effort up to 110 percent of the level of effort for any period until the estimated cost for that period has been reached. However, this additional effort shall not result in any increase in the fixed fee, if any. If this is a cost-plus-incentive-fee (CPIF) contract, the term "fee" in this paragraph means "base fee and incentive fee." If this is a cost-plus-award-fee (CPAF) contract, the term "fee" in this paragraph means "base fee and award fee."

(d) If the level of effort specified to be ordered during a given base or option period is not ordered during that period, that level of effort may not be accumulated and ordered during a subsequent period.

(e) These terms and conditions do not supersede the requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

B.2 WORK ASSIGNMENTS (EPAAR 1552.212-71) (APR 1984)

(a) The Contractor shall perform work under this contract as specified in written work assignments issued by the Contracting Officer.

(b) Each work assignment will include (1) a numerical designation, (2) the estimate of required labor hours, (3) the period of performance and schedule of deliverables, and (4) the description of the work.

(c) The Contractor shall acknowledge receipt of each work assignment by returning to the Contracting Officer a signed copy of the work assignment within seven (7) calendar days after its receipt. The Contractor shall begin work immediately upon receipt of a work assignment.

Within ten (10) calender days after receipt of a work assignment, the Contractor shall submit 2 copy(ies) of a work plan to the Project Officer and 1 copy(ies) to the Contracting Officer. The work plan shall include a detailed technical and staffing plan and a detailed cost estimate.

Within fifteen (15) calendar days after receipt of the work plan, the Contracting Officer will provide written approval or disapproval of it to the Contractor.

If the Contractor has not received approval on a work plan within fifteen (15) calendar days after its submission, the Contractor shall stop work on that work assignment. Also, if the Contracting Officer disapproves a work plan, the Contractor shall stop work until the problem causing the disapproval is resolved. In either case, the Contractor shall resume work only when the Contracting Officer finally approves the work plan.

(d) This clause does not change the requirements of the "Level of Effort" clause, nor the notification requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

(e) Work assignments shall not allow for any change to the terms or conditions of the contract. Where any language in the work assignment may suggest a change to the terms or conditions, the Contractor shall immediately notify the Contracting Officer.

B.3 ESTIMATED COST AND FIXED FEE (EP52.216-190) (APR 1984)

(a) The estimated cost of this contract is $294,674.00.

(b) The fixed fee is $16,652.00.

(c) The total estimated cost and fixed fee is $311,326.00.

B.4 OTHER DIRECT COSTS (EP52.231-110) (APR 1984)

For the categories listed, direct costs in excess of the following are not allowable as a charge to this contract without the prior written approval of the Contracting Officer:

OTHER DIRECT COSTS $50,000.00

Allowable Other Direct Costs will be set forth in each individual work assignment. Other Direct Costs may include such items as travel, computer time and miscellaneous direct charge items.

B.5 LIMITATION OF FUNDS NOTICE
(EP52.232-100) (APR 1984)

(a) Pursuant to the Limitation of Funds clause, incremental funding in the amount of $85,308.00 is allotted to cover estimated cost. Funds in the amount of $4,692.00 are provided to cover the corresponding increment of fixed fee. The amount allotted for costs is estimated to cover the contractor's performance through $90,000.00.

(b) When the contract is fully funded as specified in the Estimated Cost and Fixed Fee Clause (EP52.216-190), the Limitation of Cost clause shall become applicable.

SECTION C - DESCRIPTION/SPECIFICATION /WORK STATEMENT

C.1 BACKGROUND

The effects of chemicals and physical stresses on health, property and the environment have become increasingly apparent with growing industrialization. Undesirable effects of chemicals were often first recognized in the occupational setting because of high worker exposure. The Occupational Safety and Health Act of 1970 was enacted to protect workers from excessive exposure to chemical and physical stresses. Protection of Federal Employees from occupational hazards are specifically addressed in 29 CFR 1960 and Executive Order 12196. In addition OSHA has recently promulgated a hazardous waste standard (29 CFR 1910.120)

In the 1970's, major laws were also passed designed to protect the environment from the use and disposal of toxic materials. These environmental laws apply to governmental agencies as well as industrial plants. The current laws that EPA activities must comply with include:

- o The Clean Air Act (CAA);
- o The Clean Water Act (CWA);
- o The Safe Drinking Water Act (SDWA);
- o The Toxic Substances Control Act (TSCA);
- o The Resource Conservation and Recovery Act (RCRA);
- o The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA),
- o The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA);
- o The Superfund Amendments and Reauthorization Act (SARA) of 1986;
- o The Hazardous Materials Transportation Act (HMTA);
- o The Nuclear Waste Policy Act; and,
- o The Atomic Energy Act.

In addition to these federal laws, EPA facilities and activities may also fall under more restrictive or additional state and local regulations.

C.2 EPA's OHSS's RESPONSIBILITIES/FUNCTIONS

EPA's OHHS is tasked with the following responsibilities/ functions:

C.2.1 Management and Administration Assistance to the facility individual responsible for safety and health, and environmental compliance responsibilities include:

a. Collecting information for new guidance, Standard Operating

Procedures (SOPS) and policies; b. Development and implementation of new guidelines, SOPS, and standards; c. Evaluation and recognition of problem areas and recommending goals to correct these problems; d. Recordkeeping and scheduling functions; e. Promotion of safe and healthful work areas and attitudes, f. Dissemination of information on sensitive or critical issues and problems; and, g. Maintaining computer based tracking systems for training, inspections, compliance actions, medical examinations, chemical inventory, and other related/associated program areas.

C.2.2 Inspections, Audits and Accident Investigations
responsibilities include:

a. Periodic inspection of all facilities and field activities for compliance with safe and healthful and environmentally sound work practices and standards; b. Vehicle inspections; c. Office, laboratory and warehouse inspections; d. Inspection of field equipment, including boats, trailers and aircraft; e. Hazardous waste site activities inspections; f. Diving operations inspections; g. Environmental compliance audits h. Routine inspections of safety and health equipment (such as fire extinguishers, SCBA's, emergency showers and eyewashes); i. Periodic inspection of laboratory fume hoods and air balancing systems; j. Monitoring of safety and health abatement activities; k. Participation in field activities to audit for compliance with on-site safety plans; l. Conduct of special industrial hygiene and safety surveys (for example - personnel air and noise level monitoring; and m. Reviewing all accident reports for completeness, and investigating and preparing written reports for all occupational injuries and illnesses and accidents.

C.2.3 Training
responsibilities include:

a. Developing/delivering training which will include that needed for various certifications or regulatory requirements, to include as a minimum: 1. Basic and refresher ("State of the Art") training. 2. Specialized or tailored training for various program areas; b. Safety and health orientation training for new employees; c. Developing and maintaining computer based tracking system for training and certification; d. Coordinating and scheduling routine safety and health courses such as First Aid, CPR, Defensive Driving, etc; e. Reviewing technical documents (publications, papers, training courses, site visit reports and other material in order to offer "state of the art" training courses; f. Previewing training courses offered by private consultants; g. Training of supervisors and managers of the Safety and Health and Environmental Compliance Programs; h. Training of Environmental Compliance Coordinators regarding existing and new regulatory requirements and implementation procedures; i. Respiratory protection training and fit-testing of respirators to assure compliance with OSHA regulations; j. Quantitative respiratory fit-testing to assure compliance with OSHA asbestos regulations; and, k. Coordinating, scheduling and preparing materials for periodic simulated field and laboratory exercises using emergency and spill response equipment, instruments and clothing;

C 2.4 Occupational Medical Monitoring Program
responsibilities include:

a. Collecting information for the evaluation of this program annually, to determine if EPA employees are receiving comprehensive occupational medical examinations as required by EPA guidelines. b. Preparing a scope of work for a medical monitoring contract. c. Based on input from supervisors, providing recommendations of who should be included in this program and the frequency of these exams. Reviewing employee work activities and potential exposure and recommending any special requirements in the annual exams; d. Developing and maintaining a computer based tracking system of who was examined, type of exam, and what testing was performed, while ensuring confidentiality of medical records; e. Providing heat stress health monitoring on field sites where heat stress may be a problem; f. Implementing a physical fitness program for the divers and field hazardous waste investigation teams, to include: 1. Performing annual fitness monitoring for those individuals assigned to high physical stress positions, and 2. Providing local physical fitness services for specified personnel; g. Reviewing Incident Safety Check-Off Lists and providing copies for inclusion in the employee's medical monitoring records, and coordinating possible exposures with the physician for special testing if necessary, h. Coordinating routine health services for employees through outside health organizations, to include: 1. Blood drives, 2. Immunizations, and 3. Blood pressure checks, etc; and, i. Collecting information for obtaining permits.

C 2.5 Laboratory Safety and Health
responsibilities include:

a. Reviewing field operations for compliance with environmental regulations, and preparing new procedures for the disposal or cleaning of contaminated clothing, sampling equipment and materials; b. Periodically reviewing and updating the Contingency Plan to insure prompt clean-up of spills, medical treatment for injured employees, or emergency notification, and reporting to local, state and federal agencies; c. Training on laboratory waste disposal practices and procedures to laboratory employees; d. Recommending standard operating safety procedures for various methods and processes performed in the Laboratory; e. Maintaining a chemical inventory for all chemicals in the Laboratory; f. Supporting compliance with EPA and State Hazard Communication Standards. Preparing and updating the Hazard Communication Standard for the Laboratories. 1. Insuring Material Safety Data Sheets are obtained and maintained on all chemicals in the Laboratories. 2. Providing training on the chemicals used in the Laboratories and the hazards associated with their use; g. Assisting in the preparation, maintenance and updating of the Laboratory Safety and Health Manual; h. Serving as a resource to the Laboratory Safety and Health

Committee; i. Inspecting and certifying the fume hoods in the Laboratories; j. Assisting in preparing Building and Facility funding requests as needed, to provide for new engineering controls at the Laboratories; k. Performing routine inspections of the waste storage area, fume hoods, emergency equipment, SCBA's, fire extinguishers, eye washes, emergency showers and other equipment, recording this information on a computer data base; l. Performing personnel air monitoring to insure a healthful working environment for Laboratory employees (examples acetone, methylene chloride, diethyl ether, etc.); m. Preparing or reviewing special operating procedures in the Laboratory, e.g., Standard operating procedures (SOP) for the toxic handling room, SOP for eye and hand protection, SOP for protecting the safety of visitors touring the laboratory; n. Evaluating the safety equipment used by EPA to insure it has been calibrated or tested as necessary. Evaluating protective clothing used to determine if it has sufficient permeation and degradation qualities for use at hazardous waste sites; and, o. Identifying inspections required by federal or state regulations, e.g., Halon fire suppression systems, lab low-pressure steam boilers, fire extinguishers, hydrostatic test for SCBA's, and developing safety plans.

C.2.6 Field Investigations
responsibilities include:

a. Preparing or reviewing site safety and health plans for EPA actions, responsible party clean-ups, Corps of Engineers remedial actions, criminal investigations, or other field activities; and, b. Preparing generic site safety and health plans for common or routine field investigations, e.g., Place Mine Inspections, Asbestos Inspections, and RCRA Inspections at TSD Facilities.

C.2.7 Budgeting and Procurement
responsibilities include:

a. Guidance and technical support on the type of safety equipment to purchase for various office, field, or laboratory operations; b. Information for the preparation of the annual budget requests for safety and health equipment, supplies, training courses, waste disposal charges, engineering controls, and other materials needed to support the overall program; and, c. Technical assistance to the state ecology organizations as to the type of equipment, supplies, and training courses to purchase in order to support their laboratory and field operations.

C.2.8 Workers Compensation Claims
responsibilities include:

a. Support at headquarters level for the administration of the Workers Compensation Program including preparation of a management report with an annual summary of compensation costs and injury/illness costs; b. Providing information for the processing and coordination of injury/illness claims submitted by employees to insure timely processing and negate claim costs, c. Investigating any questionable claim and report findings to the Health and Safety Manager; d. Providing information for the coordination of problem areas such as medical payments, claim coverage, pay, or other discrepancies with the Human Resources Branch, the OWCP, the supervisor and the employee; and, e. Reviewing the claims submitted and recommend appropriate corrective action to eliminate or reduce hazards as necessary.

C.2.9 Safety and Health Committee responsibilities include:

Serving as an advisor to various safety and health committees

C.2.10 Laboratory Environmental Compliance responsibilities include:

a. Maintaining an inventory of chemicals purchased, their use and expiration dates; b. Maintaining records associated with regulatory requirements; c. Inspecting on-site waste treatment, storage and disposal operations and on-site uses of regulated toxic substances (PCB's); d. Providing training to staff involved in hazardous waste management; e. Preparing procurement requests for the packaging, transportation and disposal of waste; f. Providing sampling and analysis of materials to determine their regulatory status; g. Developing implementation (communication) strategies for new regulatory requirements impacting laboratory operations; h. Preparing cost estimates for pollution abatement projects to be part of reports for OMB and the Office of Administration's Building and Facilities budget; i. Preparing permit applications required for environmental activities that are regulated by state and federal agencies; j. Conducting internal audits of laboratory activities regulated by environmental legislation; and, k. Developing environmental compliance guidance and training materials.

C 3 STATEMENT OF WORK--CONTRACT WHERE WORK IS ORDERED BY WORK ASSIGNMENTS OR DELIVERY ORDERS (EP 52.210-110) (APR 1984)

The Contractor shall furnish the necessary personnel, material, equipment, services and facilities (except as otherwise specified), to perform the following Statement of Work/Specifications:

The Contractor shall perform work under this contract only as directed in work assignments issued by the Contracting Officer.

The Contractor shall support EPA's Occupational Health and Safety Staff, as directed, in meeting its responsibilities of insuring that Agency facilities, activities and projects are in full compliance with current environmental laws, state and local regulations, and established Agency guidance and directives. Additionally, the Contractor shall be responsive and adjust their approach to any new laws or regulations which may be enacted or established during the life of the contract period.

It is estimated that of the total effort under this contract, 40% will be devoted to Environmental Compliance activities, 40% to Occupational Health and Safety, and 20% to activities related to the other laws.

Any contractor assignments with regard to statistical surveys, data collection using questionnaires, or statistical analysis of survey data shall be performed in accordance with required procedures and established guidance, including the "EPA Survey Management Handbook"

The EPA may require on-site support at any Agency laboratory or office (Regional and Headquarters) on a continued basis. While any site may be specified, those initially identified are: New York, New York; Atlanta, Georgia; Houston, Texas; Denver, Colorado; San Francisco, California; Seattle, Washington; Cincinnati, Ohio; Narragansett, Rhode Island; Corvallis, Oregon; Las Vegas, Nevada; and, Washington, DC.

The following are typical of the types of contractor support services that the EPA may require and assign to the Contractor during the duration of the contract. This sampling is a representation of the types of tasks associated with this effort and is not meant to be all-inclusive.

C.3.1 OCCUPATIONAL HEALTH AND SAFETY

As required, the Contractor shall provide support/technical assistance in the following areas:

C.3.1.1 Administrative Support
may include:

Assisting in the development of standards, manuals, and guidelines; providing technical assistance; identifying employees who are required to wear protective clothing; assisting in the preparation of reports, e.g., annual narrative and annual statistical reports; reporting and recordkeeping for (a) accident/illness investigation and reporting, (b) employee complaints, investigations and posting and, (c) log of occupational injuries and illnesses; hazardous duty assistance, i.e., assist the health and safety manager in determining: (a) if a hazardous work condition exists, (b) whether safeguards are adequate, and (c) what additional safeguards are necessary; and Occupational Health and Safety Committee support, e.g., (a) preparing notice of meetings and coordinating the agenda, (b) preparing minutes of meetings for signature of chairperson, (c) distributing minutes, (d) attending meetings and serving as technical advisor to committee and, (e) assisting in the coordination the Medical Monitoring Program.

C.3.1.2 Training and Promotion Program Support
may include:

Training support may include developing and/or presenting training programs to cover: (a) orientation, (b) supervisory responsibilities, (c) office safety, (d) vehicle education and safety, (e) first aid - CPR, (f) respiratory protection, (g) general laboratory safety, (h) advanced laboratory safety - handling toxic and hazardous substances, (i) field safety, (j) hazardous materials transportation, (k) materials handling, (l) fire safety, (m) special categories, i.e. mine safety, radiation safety, aircraft, stack sampling, etc, (n) certification and, (o) injury and illness reporting requirements.

Promotion Program support may include: preparing and distributing off-the-job health and safety documents, e.g., (a) newsletter articles, (b) bulletin board information and poster programs and, (c) memoranda and other health and safety information; promotion of national health and safety programs; preparing and distributing occupational health and safety materials, e.g., (a) newsletter articles, (b) bulletin board information and poster programs and, (c) memoranda and other health and safety/environmental compliance information.

C.3.1.3 Occupational Safety Program Support
may include:

Assisting in the implementation of Office Safety Programs, e.g., (a) hazard recognition and abatement, (b) emergency equipment and procedures, (c) housekeeping and, (d) Materials handling; providing technical assistance for Laboratory Safety Programs, e.g., (a) safe handling, use, storage and disposal of hazardous materials, (b) materials safety data sheets, (c) safe handling and use of compressed gases (d) protective equipment required (e) laboratory protocols for (1) glassware (2) pipetting (3) analytical procedure (f) emergency equipment and procedures (g) housekeeping (h) posting of hazardous areas (i) materials handling (j) injury and illness reporting requirements; providing technical assistance for Field Safety Programs, e.g., (a) vehicle safety program (boats, cars, trucks, mobile labs, trailers, etc.), (b) handling hazardous substances in the field, (c) sampling hazardous substances and safeguards, (d) personal protective equipment required, (e) materials handling, (f) mine entry safety, (g) sites of unknown toxicity, (h) emergency response; providing technical assistance for Fire Safety Programs, e.g., (a) protection of employees, (b) protection of property and equipment, (c) evacuation and emergency procedures plan and safety plans and procedures, (d) early warning and detection, (e) adequate exits access, aisles, and exitways; providing technical assistance for Noise Control Programs, e.g., (a) protective equipment and (b) recognition and abatement; and, providing technical assistance for Radiation Safety Programs, e.g., (a) meeting licensing requirements, (b) posting and warning, (c) personal protective equipment and, (d) personnel and survey monitoring.

C.3.1.4 Occupational Health Program Support
may include:

Medical monitoring, i.e., providing technical assistance so that the EPA Health and Safety Manager can: (a) evaluate program annually and determine if EPA employees are receiving comprehensive occupational medical examinations as required by EPA guidelines, (b) providing information and technical assistance in the preparation of a scope of work and technical evaluations of potential contractors (within established, allowable framework) for the medical monitoring contract, and providing assistance/information regarding the approval of payment vouchers For IAG special payment approval maybe necessary. (c) based on input from supervisors and employees, deciding who should be included in this program and the frequency of these exams, reviewing the employee's work activities and potential exposure and including any special requirements, as needed, in the annual exams, (d) providing for baseline, periodic, termination or end of employment, and acute exposure monitoring examinations for regional, field, and laboratory employees, (e) providing computer based tracking system for who was examined, type of examination, and what testing was performed, (f) providing heat stress health monitoring on field sites where heat stress may be a problem, (g) providing for a physical fitness program for the divers and the Field Hazardous Waste Investigation Team, (h) performing annual fitness monitoring for those individuals assigned to high physical stress positions, (i) providing for local physical fitness services for specified personnel; related ventilation issues (local and general), and respiratory protection.

C.3.1.5 Preparation of specifications for work statements and technical evaluation criteria:

The contractor agrees, by accepting this contract, that they shall not participate nor be eligible for such participation in any future competition related to medical monitoring that shall result from their development of work statements and technical evaluation criteria (C.3.1.4) for a period of three (3) years, either as a prime contractor or as a subcontractor. Affiliates of the Contractor are also restricted from participating in the competition for the medical monitoring package.

In accordance with contract clause 52.227-17 RIGHTS IN DATA-SPECIAL WORKS, information and documentation generated and developed during the performance of this Contract shall not be transferred by the Contractor to any other company, person or Agency other than the Environmental Protection Agency. Refer to Clause 52.227-17 for restrictions.

C.3.1.6 Occupational Health and Safety Inspection and Abatement Program Support may include:

Technical assistance to the Health and Safety/Environmental Compliance Manager, to enable implementation of: formal and informal health and safety inspections, abatement programs, associated reports, and the conduct of special inspection or monitoring.

C.3.1.7 Workers Compensation Claims Support may include:

Technical Assistance to enable the health and safety manager to: administer the Regional Workers Compensation Program; process and coordinate injury/illness claims submitted by employees to insure timely processing and negate claim costs and coordinate any discrepancies with the local OWCP Office; investigate any questionable claim and report findings to management and the OWCP; coordinate problem areas such as medical payments, claim coverage, pay, or other discrepancies with the Human Resources Branch, the OWCP, the supervisor, and the employee; review the claims submitted and take appropriate corrective action to eliminate or reduce hazards as necessary; and provide training in injury and illness reporting requirements.

C.3.2 ENVIRONMENTAL COMPLIANCE

As required, the Contractor shall provide support/technical assistance in the following areas:

C.3.2.1 Administrative Support
may include:

Developing and updating an Environmental Compliance Manual; keeping up-to-date and provide management with information pertaining to environmental compliance. remaining current on all applicable regulatory requirements and proposed changes (which may include monitoring the Federal Register on a regular basis; identifying the environmental compliance requirements in accordance with (a) the Clean Air Act (b) the Clean Water Act (c) RCRA (d) the Safe Drinking Water Act (e) the Toxic Substance Control Act (f) CERCLA and, (g) SARA; and Prepare checklist and model documents to facilitate regional and research laboratory compliance with regulatory inspections and document/record requirements.

C.3.2.2 Training Support
may include:

Identifying training needs; providing training in applicable laws and regulations; providing training for managers and their responsibilities; issuing an associated newsletter; and, developing and preparing briefings and promotional material.

C.3.2.3 Technical Assistance
may include:

Providing technical assistance, including expert consultants, on environmental compliance; responding to requests for information from the field laboratories and regional offices; and testing emissions.

C.3.2.4 Permits Support
may include:

Assistance in identifying the permit needs of EPA facilities; preparing permit applications as required; assisting at public hearings in support of the permit process; and establishing a library of all permit applications and permits.

C.3.2.5 Reports Support
may include:

Assistance in preparing A-106 Annual Report and building and facilities budget requests for projects to bring facilities into environmental compliance; and preparing abatement action reports.

C.3.2.6 Inspections/Audits Support
may include:

Developing/updating checklists for environmental inspections/audits; performing inspections/audits; following-up on inspection/audit findings; and coordinating abatement action plans.

SECTION D - PACKAGING AND MARKING

[For this Contract, there are NO clauses in this Section]

SECTION E - INSPECTION AND ACCEPTANCE

E.1 CLAUSES INCORPORATED BY REFERENCE (FAR 52.252-2) (APR 1984)

This contract incorporates the following clauses by reference. These clauses have the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

CLAUSE NUMBER	DATE	TITLE
52.246-5	APR 1984	INSPECTION OF SERVICES--COST-REIMBURSEMENT

E.2 INSPECTION AND ACCEPTANCE (EP52.246-100) (APR 1984)

(a) The Contracting Officer or the duly authorized representative will perform inspection and acceptance of materials and services to be provided.

(b) For the purposes of this clause, the Project Officer is the authorized representative of the Contracting Officer.

(c) Inspection and acceptance will be performed at:

US ENVIRONMENTAL PROTECTION AGENCY
401 M Street, SW
Washington, DC 20460

SECTION F - DELIVERIES OR PERFORMANCE

F.1 CLAUSES INCORPORATED BY REFERENCE (FAR 52.252-2) (APR 1984)

This contract incorporates the following clauses by reference. These clauses have the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

CLAUSE NUMBER	DATE	TITLE
52.212-13	APR 1984	STOP-WORK ORDER ALTERNATE I (APR 1984)

F.2 REPORTS OF WORK (EPAAR 1552.210-70) ALTERNATE I (APR 1984)

The Contractor shall prepare and deliver the below listed reports to the designated addressees. Each report shall cite the contract number and identify the Environmental Protection Agency as the sponsoring agency.

F.3 MONTHLY PROGRESS REPORT--COST-TYPE CONTRACT (EPAAR 1552.210-72) (APR 1984)

The Contractor shall furnish Three (3) copies of a combined monthly technical and financial progress report briefly stating the progress made, including the percentage of the project completed during the reporting period. If work is ordered using work assignments include the percentage of work ordered and completed during the reporting period. Specific discussions shall include difficulties encountered and remedial action taken during the reporting period and anticipated activity during the subsequent reporting period. In addition, the report shall specify contract financial status as follows:

(a) For term form contracts, provide:

(1) Cumulative costs and direct labor hours expended from the effective date of the contract through the last day of the current reporting month. Include a cumulative incurred cost per direct labor hour average computation and compare the result to the cumulative average cost per direct labor hour derived from the estimated cost of the contract.

(2) Actual costs and direct labor hours expended during the current reporting month.

(3) Estimated costs and direct labor hours to be expended during the next reporting period

(4) Actual costs and direct labor hours incurred for each work assignment issued and estimates of costs and man hours required to complete each work assignment.

(b) For completion form contracts, provide a graph using a vertical axis for dollars and a horizontal axis for time increments that shows the actual and projected rate of expenditures against the total estimated cost of the contract.

(c) This submission does not change the notification requirements of the "Limitation of Cost" or "Limitation of Funds" clauses requiring separate written notice to the Contracting Officer.

(d) The reports shall be submitted to the following addressees on or before the Tenth (10th) of each month following the first complete calendar month of the contract.

Distribution

Number of copies	addressee
Two (2)	Project Officer
One (1)	Contracting Officer

F.4 INDIVIDUAL WORK ASSIGNMENT/PROJECT REPORTS

F.4.1 Monthly Technical/Financial Report

A Monthly Technical/Financial Report shall be prepared and shall address in detail, each active work assignment/task (when provided for in the individual work assignment and required by an individual task manager) and overall project status report will summarize and highlight the activities and overall expenditures. The report shall be submitted as specified in the individual Work Assignment as follows:

Number of copies	Addressee
One (1)	Project Officer
One (1)	Work Assignment/Task Manager
One (1)	Contracting Officer

The technical section of the report shall, as a minimum, cover work status (planning versus actual), work performed, percent of project completion, difficulties encountered, remedial actions taken, and a listing and discussion of activities planned for the next reporting period -- including a description of work to be performed and equipment, techniques, and materials to be used or evaluated. The report shall also contain the names and any changes of personnel involved in the perfromance of the individual Work Assignment.

The financial section of the report shall provide a detailed tabulation and graphical representation of the Task's estimated budget versus actual and committed expenditures (hours and dollars) for the reporting period and for the task to date. The scheduling of task activities and expenditures shall be restricted to that which can be accomplished within each separate contract period of performance. A running quarterly estimate of task activities and estimated costs shall be provided for planning purposes. Any significant anticipated/proposed variation from the estimated costs and scheduled activities for the period, that were identified in the approved Work Plan shall be thoroughly explained in the report.

F.4.2 Final Work Assignment/Project Report

A Final Report shall be prepared and submitted upon completion of each work assignment/task (when provided for in the individual work assignment and required by an individual task manager). This report shall be suitable for publication and/or public presentation. Specifications for the content of the report shall be as specified in the Work Assignment or any modification thereto. Format specifications shall be in accordance with applicable EPA reports criteria.

F.4.2.1 Draft Final Report

A draft of this final project report shall be prepared and submitted as specified above for technical and editorial review within thirty (30) days after the completion of activities identified in the Project Work Plan. The draft of this report shall be typed doublespaced and shall include all illustrations, tables, drawings, charts, data sheets, and other pertinent material required in the approved final technical reprot. The Project Officer shall notify the contractor of approval or rejection of the draft report within 45 calendar days, citing any additions or necessary corrections/revisions.

The report shall be submitted as follows:

Number of copies	Addressee
One (1)	Project Officer
One (1)	Work Assignment/Task Manager
One (1)	Contracting Officer

F.4.2.2 "Final" Final Report

Within 30 calendar days after receipt of notification, the Contractor shall submit the final single-spaced manuscript of the approved final report as follows:

Number of copies	Addressee
One (1)	Project Officer
Six (6) (incl. original)	Work Assignment/Task Manager
One (1)	Contracting Officer

F.5 WORKING FILES (EPAAR 1552.210-74) (APR 1984)

The Contractor shall maintain accurate working files on all work documentation including calculations, assumptions, interpretations of regulations, sources of information, and other raw data required in the performance of this contract. The Contractor shall provide the information contained in its working files upon request of the Contracting Officer.

F.6 MANAGEMENT CONSULTING SERVICES
(EPAAR 1552.210-77) (APR 1985)

All reports containing recommendations to the Environmental Protection Agency shall include the following information on the cover of each report: (a) name and business address of the contractor; (b) contract number; (c) contract dollar amount; (d) whether the contract was subject to full and open competition or a sole source acquisition (e) name of the EPA Project Officer and the EPA Project Officer's office identification and location; and (f) date of report.

F.7 PERIOD OF PERFORMANCE
(EP52.212-140) (APR 1984)

The period of performance of this contract shall be from contract's effective date through September 30, 1988 inclusive of all required reports.

SECTION G - CONTRACT ADMINISTRATION DATA

G.1 SUBCONTRACTING PROGRAM FOR SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS (EP52.219-105) (APR 1984)

The subcontracting plan submitted by the Contractor and approved by the Contracting Officer for this requirement is incorporated as Attachment A.

G.2 SUBCONTRACTING REPORTS--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS (EP52.219-120) (APR 1984)

The Contractor shall submit a report for subcontracting under this particular contract and a summary report on subcontracts in all contracts between the Contractor and the EPA which contain subcontract goals for awards to small business and small disadvantaged business concerns.

The Contractor shall submit subcontracting reports on Standard Forms 294 and 295. The reports shall be submitted semi-annually and quarterly respectively in accordance with the General Instructions on the reverse side of the forms.

Copies of these reports shall be delivered to:

Distribution	Addressee
1 original	Contracting Officer
1 copy	Socioeconomic Officer, Office of Small & Disadvantaged Business Utilizatization 401 M Street, S.W. (A-149) Washington, D.C. 20460

G.3 PROMPT PAYMENT (FAR 52.232-25) (FEB 1988) ALTERNATE II (FEB 1988)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. Definitions of pertinent terms are set forth in 32.902. All days referred to in this clause are calendar days, unless otherwise specified.

(a) Invoice Payments

(1) For purposes of this clause, "invoice payment" means a Government disbursement of monies to a Contractor under a contract or other authorization for supplies or services accepted by the Government. This includes payments for partial deliveries that have been accepted by the Government and final cost or fee payments were amounts owed have been settled between the Government and the Contractor.

(2) Except as indicated in subparagraph (a)(3) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(i) The 30th day after the designated billing office has received a proper invoice from the Contractor.

(ii) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(3) The due date on contracts for meat and meat food products, contracts for perishable agricultural commodities, and contracts not requiring submission of an invoice shall be as follows:

(i) The due date for meat and meat food products, as defined in Section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)) and further defined in Pub. L. 98-181 to include poultry, poultry products, eggs, and egg products, will be as close as possible to, but not later than, the 7th day after product delivery.

(ii) The due date for perishable agricultural commodities, as defined in Section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(44)), will be as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(iii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(4) An invoice is the Contractor's bill or written request for payment under the contract for supplies delivered or services performed. An invoice shall be prepared and submitted to the designated billing officer specified in the contract. A proper invoice must include the items listed in subdivisions (a)(4)(i) through (a)(4)(viii) of this clause. If the invoice does not comply with these requirements, then the Contractor will be notified of the defect within 15 days after receipt of the invoice at the designated billing office (3 days for meat and meat food products and 5 days for perishable agricultural commodities). Untimely notification will be taken into account in the computation of any interest penalty owed the Contractor in the manner described in subparagraph (a)(6) of this clause.

(i) Name and address of the Contractor

(ii) Invoice date.

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number and mailing address of person to be notified in event of a defective invoice.

(viii) Any other information or documentation required by other requirements of the contract (such as evidence of shipment).

(5) An interest penalty shall be paid automatically by the Government, without request from the Contractor, if payment is not made within 15 days after the due date (3 days for meat and meat food products and 5 days for perishable agricultural commodities) and the following conditions are met, if applicable:

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed and there was not disagreement over quantity, quality, or contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(6) The interest penalty shall be the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the payment date, except where the interest penalty is prescribed by other governmental authority. This rate is referred to as the "Renegotiation Board Interest Rate", and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice payment amount

approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice payment amount and be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the contractor of a defective invoice within the periods prescribed in paragraph (a)(4) of this clause, then the due date on the corrected invoice will be adjusted by subtracting the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties, if requested by the Contractor.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 5th working day after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 15 days (3 days for meat and meat food products and 5 days for perishable agricultural commodities).

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the Disputes clause or for more than 1 year. Interest penalties of less than $1.00 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes and any interest that may be payable, will be resolved in accordance with the Disputes clause.

(7) An interest penalty shall also be paid automatically by the designated payment office, without request from the contractor, if an improperly taken discount for prompt payment was not corrected

within 15 days after the expiration of the discount period (3 days for meat and meat food products and 5 days for perishable agricultural commodities). The interest penalty will be calculated as described in paragraph (a)(6) of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the contractor is paid.

(b) Contract Financing Payments

(1) For purposes of this clause, "contract financing payment" means a Government disbursement of monies to a Contractor under a contract clause or other authorization prior to acceptance of supplies or services by the Government. Contract financing payments include advance payments, progress payments based on cost under the clause at 52.232-16, Progress Payments, progress payments based on a percentage or stage of completion (32.102(e)(1) other than those made under the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, or the clause at 52.232-10, Payments Under Fixed-Price Architect-Engineer Contracts, and interim payments on cost type contracts.

(2) For contracts that provide for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the 30th day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment offices not compelled to make payment by the due date specified.

(3) For advance payments, loans, or other arrangements that do not involve recurrent submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(4) Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) Electronic Funds Transfer. Payments under this contract will be made by the Government either by check or electronic funds transfer (through the Treasury Financial Communications System (TFCS) or the Automated Clearing House (ACH), at the option of the Government. After award, but no later than 14 days before an invoice or contract financing request is submitted, the contractor shall designate a financial institution for receipt of electronic funds transfer payments. The Contractor shall submit this designation to the Contracting Officer or other Government official, as directed.

(1) For payment through TFCS, the Contractor shall provide the following information:

(i) Name, address, and telegraphic abbreviation of the financial institution receiving payment.

(ii) The American Bankers Association 9-digit identifying number of the financing institution receiving payment if the institution has access to the Federal Reserve Communications System.

(iii) Payee's account number at the financial institution where funds are to be transferred.

(iv) If the financial institution does not have access to the Federal Reserve Communications System, name, address, ~~and~~ telegraphic abbreviation of the correspondent financial institution through which the financial institution receiving payment obtains electronic funds transfer messages. Provide the telegraphic abbreviation and American Bankers Association identifying number for the correspondent institution.

(2) For payment through ACH, the Contractor shall provide the following information:

(i) Routing transit numbers of the financial institution receiving payment (same as American Bankers Association identifying numbers used for TFCS).

(ii) Number of account to which funds are to be deposited.

(iii) Type of depositor account ("C" for checking, "S" for savings).

(iv) If the Contractor is a new enrollee to the ACH system, a "Payment Information Form," TFS 3881, must be completed before payment can be processed.

(3) In the event the Contractor, during the performance of this contract, elects to designate a different financial institution for the receipt of any payment made using electronic funds transfer procedures, notification of such change and the required information specified above must be received by the appropriate Government official 30 days prior to the date such change is to become effective.

(4) The documents furnishing the information required in this paragraph (c) must be dated and contain the signature, title, and telephone number of the Contractor official authorized to provide it, as well as the Contractor's's name and contract number.

(5) Contractor failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

G.4 APPLICATION OF PROMPT PAYMENT ACT--CONTRACTS WITH ADVANCE, PROGRESS, OR PROVISIONAL PAYMENTS (EPAAR 1552.232-70) (APR 1984) (DEVIATION)

(a) Invoices.

(1) An invoice is a written request for payment under the contract for supplies delivered or for services rendered. In order to be proper, an invoice under a cost-reimbursement contract must be prepared in accordance with EPA Form 1900-34, "Guide for the Preparation of Contractor's Claims for Reimbursement of Costs and Fees Under Cost Reimbursement Type Contracts" or EPA Form 1900-34A, "Guide for the Preparation of Contractor's Claims for Reimbursement of Costs and Fees Under Cost-Plus-Award-Fee (CPAF) Type Contracts," and include as applicable the following:

(i) Invoice date;

(ii) Name of contractor;

(iii) Contract number (including order number, if any), contract line item number, contract description of supplies or services, quantity, contract unit of measure or unit price, and extended total;

(iv) Shipment number and date of shipment; (bill of lading number and weight of shipment will be shown for shipments on Government bills of lading);

(v) Name and address to which payment is to be sent (which must be the same as that in the contract or on a proper notice of assignment);

(vi) Any other information or documentation required by other provisions of the contract (such as evidence of shipment);

(vii) If a cost-reimbursement term form contract with work assignments, a summary of amounts claimed against each work assignment.

(viii) If an indefinite delivery/indefinite quantity contract, a summary of amounts claimed against each delivery order.

(b) Submission of Invoices

Invoices shall be prepared and submitted in quadruplicate (one copy shall be marked "original") unless otherwise specified.

G.5 INDIRECT COSTS (EPAAR 1552.242-70) (APR 1984)

(a) In accordance with paragraph (d) of the "Allowable Cost and Payment" clause, the final indirect cost rates applicable to this contract shall be established between the Contractor and the appropriate Government representative (EPA, other Government agency, or auditor), as provided by FAR 42.703(a). EPA's procedures require a Contracting Officer determination of indirect cost rates for its contracts. In those cases where EPA is the cognizant agency (see FAR 42.705-1), the final rate proposal shall be submitted to the cognizant audit activity and to the following designated Contracting Officer:

Environmental Protection Agency
Chief, Cost Policy and Rate Negotiation Section (PM-214-F)
Procurement and Contracts Management Division
Washington, DC 20460

Where EPA is not the cognizant agency, the final rate proposal shall be submitted to the above-cited address, to the cognizant audit agency, and to the designated Contracting Officer of the cognizant agency. Upon establishment of the final indirect cost rates, the Contractor shall submit an executed Certificate of Current Cost or Pricing Data (see FAR 15.804-4) applicable to the data furnished in connection with the final rates to the cognizant audit agency. The final rates shall be contained in a written understanding between the Contractor and the appropriate Government representative. Pursuant to the "Allowable Cost and Payment" clause, the allowable indirect costs under this contract shall be obtained by applying the final agreed upon rate(s) to the appropriate bases.

(b) Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the appropriate Government representative in accordance with FAR 42.704, subject to adjustment when the final rates are established. The established billing rates are currently as follows:

APPLIED SCIENCE CENTER

Cost Center	Fringe (Base Operations)
Period	Award through expiration (including options)
Rate	36.00%
Base	Direct Labor

Cost Center	Overhead (Base Operations)
Period	Award through expiration (including options)
Rate	64.60%
Base	Direct Labor and Fringe

Cost Center	FICON (Base Operations)
Period	Award through expiration (including options)
Rate	3.60%
Base	Direct Labor, Fringe, OH, and ODC"s

Cost Center	G & A (Base Operations)
Period	Award through expiration (including options)
Rate	5.80%

Base	Total costs exclusive of subcontracts and G & A expense

Cost Center	Fringe (Field Without Facility)
Period	Award through expiration (including options)
Rate	36.00%
Base	Direct Labor

Cost Center	Overhead (Field Without Facility)
Period	Award through expiration (including options)
Rate	22.70%
Base	Direct Labor and Fringe

Cost Center	FICON (Field Without Facility)
Period	Award through expiration (including options)
Rate	3.60%
Base	Direct Labor, Fringe, OH, and ODC"s

Cost Center	G & A (Field Without Facilty)
Period	Award through expiration (including options)
Rate	4.20%
Base	Total costs exclusive of subcontracts and G & A expense

Cost Center	Fringe (Field With Facility)
Period	Award through expiration (including options)
Rate	36.00%
Base	Direct Labor

Cost Center	Overhead (Field With Field)
Period	Award through expiration (including options)
Rate	35.80%
Base	Direct Labor and Fringe

Cost Center	FICON (Field With Facility)
Period	Award through expiration (including options)
Rate	3.60%
Base	Direct Labor, Fringe, OH, and ODC"s

Cost Center	G & A (Field With Facility)
Period	Award through expiration (including options)
Rate	4.50%
Base	Total costs exclusive of subcontracts and G & A expense

(c) The Contractor shall provide to the Contracting Officer a written notification upon resolution of the CAS related issues (specifically, noncompliance with CAS 403, 409, 410, 418 and 420) referenced in DCAA report numbers 6231-8B210040-209, dated April 21, 1988 and 6231-8B441001-073, dated January 5, 1988. Subsequent to official notification, the Contractor agrees to enter into negotiations with EPA for the purpose of incorporating into the subject contract (68-W8-0097) the indirect rates recommended by the Contractor's cognizant audit agency to reflect resolution

These billing rates may be prospectively or retroactively revised by mutual agreement, at the request of either the Government or the Contractor, to prevent substantial overpayment or underpayment.

G.6 CONTRACT ADMINISTRATION REPRESENTATIVES (EP52.242-100) (AUG 1984)

Project Officer(s) for this contract:
LUTHER MELLEN
US ENVIRONMENTAL PROTECTION AGENCY
401 M Street, S.W. (PM-273F)
Washington, D.C. 20460 TELEPHONE (202 382-3647

Contract Specialist(s) responsible for administering this contract:
SHARON BECKER, CONTRACTING OFFICER
US ENVIRONMENTAL PROTECTION AGENCY
401 M Street, SW (PM-214F)
Washington, DC 20460 TELEPHONE (202) 475-8287

G.7 NOTIFICATION OF CHANGES (FAR 52.243-7) (APR 1984)

(a) Definitions. "Contracting Officer," as used in this clause, does not include any representative of the Contracting Officer. "Specially Authorized Representative (SAR)," as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of which shall be provided to the Contractor) which shall refer to this subparagraph and shall be issued to the designated representative before the SAR exercises such authority.

(b) Notice. The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer in writing promptly, within 15 calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state--

(1) The date, nature, and circumstances of the conduct regarded

as a change;

(2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;

(3) The identification of any documents and the substance of any oral communication involved in such conduct;

(4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;

(5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including--

(i) What contract line-items have been or may be affected by the alleged change;

(ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;

(iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;

(iv) What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and

(6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.

(c) Continued performance. Following submission of the notice required by (b) above, the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless the notice reports a direction of the Contracting Officer or a communication from a SAR of the Contracting Officer, in either of which events the Contractor shall continue performance; provided, however, that if the Contractor regards the direction or communication as a change as described in (b) above, notice shall be given in the manner provided. All directions, communications, interpretations, orders and similar actions of the SAR shall be reduced to writing promptly and copies furnished to the Contractor and to the Contracting Officer. The Contracting Officer shall promptly countermand any action which exceeds the authority of the SAR.

(d) Government response. The Contracting Officer shall promptly, within 15 calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer shall either--

(1) Confirm that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;

(2) Countermand any communication regarded as a change;

(3) Deny that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance; or

(4) In the event the Contractor's notice information is inadequate to make a decision under (1), (2), or (3) above, advise the Contractor what additional information is required, and establish the date by which it should be furnished and the date thereafter by which the Government will respond.

(e) Equitable adjustments. (1) If the Contracting Officer confirms that Government conduct effected a change as alleged by the Contractor, and the conduct causes an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed or not changed by such conduct, an equitable adjustment shall be made--

(i) In the contract price or delivery schedule or both; and

(ii) In such other provisions of the contract as may be affected.

(2) The contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by the Contracting Officer under this clause is included in the equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor's failure to provide notice or to continue performance as provided, respectively, in (b) and (c) above. NOTE: The phrases "contract price" and "cost" wherever they appear in the clause, may be appropriately modified to apply to cost-reimbursement or incentive contracts, or to combinations thereof.

G.8 SUBCONTRACT CONSENT (EP52.244-100) (APR 1984)

The Contractor shall submit the information required by the "Subcontracts," clause to the Contracting Officer and assigned

Project Officer. The Contracting Officer will provide written notice to the Contractor of his decision.

Consent is given to issue the following subcontracts:

SUBCONTRACTOR NAME	MAXIMUM VALUE	TYPE
SAIC	$ 38,625.00	CPFF
EVENTS AMALYSIS INC.	$ 32,257.00	CPFF
EASTERN RESEARCH GROUP, INC.	$ 6,944.00	CPFF
ACUREX CORPORATION	$ 60,608.00	CPFF

G.8.1 SUBCONTRACT CONSENT OPTIONS

The dollar level of subcontracts listed above will be increased when the Government exercises it's options in Clauses H.3 OPTION TO EXTEND THE TERM OF THE CONTRACT AND H.4 OPTION FOR INCREASED QUANTITY.

a) Base Period Quantity Option

Per 4,200 hour increment (Maximum of four increments)

SUBCONTRACTOR	MAXIMUM INCREASE PER INCREMENT	TYPE
SAIC	$ 16,822.00	CPFF
EVENTS ANALYSIS INC.	$ 12,366.00	CPFF
EASTERN RESEARCH GROUP, INC.	$ 1,736.00	CPFF
ACUREX COPRORATION	$ 32,446.00	CPFF

Consent is given to issue the following subcontracts for the first Option Period.

b) Option Period One (1) Basic Quantity

The amounts of the subcontracts shall be amended to reflect the following values for Option Period I:

SUBCONTRACTOR	MAXIMUM VALUE	TYPE

SAIC	$154,613.00	CPFF
EVENTS ANALYSIS INC.	$ 99,554.00	CPFF
EASTERN RESEARCH GROUP, INC.	$ 10,571.00	CPFF
ACUREX COPRORATION	$306,077.00	CPFF

c) Option Period One (1) Option Quantity

Per 7,104 hour increment (Maximum of ten increments)

SUBCONTRACTOR	MAXIMUM INCREASE PER INCREMENT	TYPE
SAIC	$ 24,861.00	CPFF
EVENTS ANALYSIS INC.	$ 11,522.00	CPFF
EASTERN RESEARCH GROUP, INC.	$ 1,057.00	CPFF
ACUREX COPRORATION	$ 63,351.00	CPFF

Consent is given to issue the following subcontracts for the Second Option Period

d) Option Period Two (2) Basic Quantity

The amounts of the subcontracts shall be amended to reflect the following values for Option Period II:

SUBCONTRACTOR	MAXIMUM VALUE	TYPE
SAIC	$162,187.00	CPFF
EVENTS ANALYSIS INC.	$102,824.00	CPFF
EASTERN RESEARCH GROUP, INC.	$ 10,984.00	CPFF
ACUREX COPRORATION	$326,889.00	CPFF

e) Option Period Two (2) Option Quantity

Per 7,104 hour increment (Maximum of ten increments)

MAXIMUM INCREASE

(i) The Contractor agrees to provide written confirmation to the Contracting Officer for the Acurex subcontract immediately upon DCAA acceptance of the proposed indirect rates and indirect rate structure contained in said subcontract. The Contractor agrees to revise the Acurex subcontract amounts set forth in Clause G.8 (Subcontract Consent) to reflect any change in Acurex's indirect rates and indirect rate structure.

G.9 GOVERNMENT-FURNISHED DATA
(EPAAR 1552.245-71) (APR 1984)

(a) The Government shall deliver to the Contractor the Government-furnished data described in the contract. If the data, suitable for its intended use, is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the "Changes" clause when:

(1) The Contractor submits a timely written request for an equitable adjustment; and

(2) The facts warrant an equitable adjustment.

(b) Title to Government-furnished data shall remain in the Government.

(c) The Contractor shall use the Government-furnished data only in connection with this contract.

(d) The data will be furnished to the Contractor as specified in the individual work assignments.

G.10 GOVERNMENT-FURNISHED PROPERTY
(EP52.245-120) (AUG 1984)

(a) The Government will provide the following item(s) of Government property to the Contractor for use in the performance of this contract. This property shall be used and maintained by the Contractor in accordance with provisions of the "Government Property" clause.

In addition to space being provided pursuant to Clause G.12 - Government Property--Facilities Use, appropriate office furniture/property will also be furnished for the Contractor's use. The extent of what will be required and at what location will be determined as the individual requirement is identified.

As appropriate, and when determined to be in the best interest of the Govenrment, additional Government Furnished Property may be provided.

SUBCONTRACTOR	PER INCREMENT	TYPE
SAIC	$ 27,307.00	CPFF
EVENTS ANALYSIS INC.	$ 11,876.00	CPFF
EASTERN RESEARCH GROUP, INC.	$ 1,098.00	CPFF
ACUREX CORPORATION	$ 70,133.00	CPFF

Consent is given to issue the following subcontracts for the Third Option Period

f) Option Period Three (3) Basic Quantity

The amounts of the subcontracts shall be amended to reflect the following values for Option Period III:

SUBCONTRACTOR	MAXIMUM VALUE	TYPE
SAIC	$165,155.00	CPFF
EVENTS ANALYSIS INC.	$106,314.00	CPFF
EASTERN RESEARCH GROUP, INC.	$ 11,417.00	CPFF
ACUREX CORPORATION	$340,386.00	CPFF

g) Option Period Three (3) Option Quantity

Per 7,104 hour increment (Maximum of ten increments)

SUBCONTRACTOR	MAXIMUM INCREASE PER INCREMENT	TYPE
SAIC	$ 27,766.00	CPFF
EVENTS ANALYSIS INC.	$ 12,335.00	CPFF
EASTERN RESEARCH GROUP, INC.	$ 1,142.00	CPFF
ACUREX CORPORATION	$ 71,513.00	CPFF

(h) The Contractor agrees to implement into his subcontract with SAIC the costs, prices and indirect rates that reflect the resolution of CAS related issues referenced in the DCAA audit report of May 3, 1988, number 4211-8A210108.

G.11 GOVERNMENT PROPERTY--FACILITIES USE (EP52.245-130) (APR 1984)

In the performance of this contract, the Contractor is authorized to use on a no-charge, noninterference basis, the following Government-owned facilities.

To be determined at time of work assignment issuance

G.12 DESIGNATION OF PROPERTY ADMINISTRATOR (EP52.245-140) (APR 1984)

The contract property administrator:

Facilities & Support Services
Division, PM-215, EPA
Washington, DC 20460

is the Contracting Officer's designated representative on property matters. The Contractor shall furnish all required information on property to the property administrator.

G.13 WORK ASSIGNMENT/TASK ADMINISTRATION

In addition to Clause G.6 -Contract Administration, of this contract, Work Assignment/Task Managers for Work Assignments will be specified in each individual Work Assignment.

The Work Assignment/Task Manager monitors the Contractor's performance under the Work Assignment for which he/she is assigned, and works under the direction and control of this contract's Project Officer(s) specified in Clause G.6.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 PRINTING (EPAAR 1552.208-70) (APR 1984)

Unless otherwise specified in this contract, the Contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 units of only one page, or less than 25,000 units in the aggregate of multiple pages, such pages not exceeding a maximum image size of 10 3/4 by 14 1/4 inches, will not be deemed to be printing.

H.2 –ORGANIZATIONAL CONFLICTS OF INTEREST (EPAAR 1552.209-71) (APR 1984)

(a) The Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, or that the Contractor has disclosed all such relevant information.

(b) The Contractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the Contractor will make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict.

(c) Remedies - The EPA may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the Contracting Officer, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(d) The Contractor further agrees to insert in any subcontract or consultant agreement hereunder, provisions which shall conform substantially to the language of this clause, including this paragraph (d).

H.3 OPTION TO EXTEND THE TERM OF THE CONTRACT--COST-TYPE CONTRACT (EPAAR 1552.217-71) (APR 1984)

The Government has the option to extend the term of this contract for 3 additional period(s). If more than 60 days remain in the contract period of performance, the Government, without prior written notification, may exercise this option by issuing a contract modification. To exercise this option within the last 60 days of the period of performance, the Government must provide to the Contractor written notification prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option. Use of an option will result in the following contract modifications.

(a) The "Period of Performance" clause will be amended as follows to cover the Base and Option Periods:

Period	Start Date	End Date
Option Period I	October 1, 1988	September 30, 1989
Option Period II	October 1, 1989	September 30, 1990
Option Period III	October 1, 1990	September 30, 1991

(b) Paragraph (a) of the "Level of Effort" clause will be amended to reflect a new and separate level of effort of:

Period	Level of Effort (Direct Labor Hours)
Option Period I	35,520
Option Period II	35,520
Option Period III	35,520

(c) The "Estimated Cost and Fixed Fee" clause will be amended to reflect increased estimated costs and fixed fees for each option period as follows:

Period	Estimated Cost	Fixed Fee	Total
Option Period I	$1,175,513.00	$65,500.00	$1,241,013.00
Option Period II	$1,268,074.00	$71,301.00	$1,339,375.00
Option Period III	$1,305,285.00	$73,259.00	$1,378,544.00

(d) The "Other Direct Costs" clause will be amended to reflect increased other direct costs for each option period as follows:

Period	Amount
Option Period I	$150,000.00

Option Period II	$200,000.00
Option Period III	$200,000.00

H.4 OPTION FOR INCREASED QUANTITY--COST-TYPE CONTRACT

By issuing a contract modification, the Goverment may increase the estimated level of effort by:

Period	Level of Effort (Direct Labor Hours)
Base Period	16,800
Option Period I	71,040
Option Period II	71,040
Option Period III	71,040

During the Base Period the Government may issue a maximum of four orders to increase the level of effort in multiples of 4,200 hours.

During each of the Option Periods, the Government may issue a maximum of ten orders to increase the level of effort in multiples of 7,104 hours.

The estimated cost and fixed fee of each multiple of hours is as follows:

Period	Estimated Cost	Fixed Fee	Total
Base Period	$141,698.00	$ 8,167.00	$149,865.00
Option Period I	$226,715.00	$13,096.00	$239,811.00
Option Period II	$245,424.00	$14,113.00	$259,537.00
Option Period III	$252,264.00	$14,543.00	$266,807.00

Associated with each of the above multiple of hours are other direct costs, as follows:

Base Period	$25,000.00
Option Period I	$30,000.00
Option Period II	$40,000.00
Option Period III	$40,000.00

The total cost plus fixed fee associated with all options (4 in base period and 10 in each option period) for increased quantity are as follows:

Base Period	$ 599,460.00
Option Period I	$2,398,110.00
Option Period II	$2,595,370.00
Option Period III	$2,668,070.00

When these options are exercised, paragraph (a) of the "Level of Effort" clause and the "Estimated Cost and Fixed Fee" clause will be modified accordingly.

H.5 INSURANCE COVERAGE (EP 52.228-100)

As provided in paragraph (a)(1) of FAR Clause 52.228-7, "Insurance--Liability to Third Persons", the Contractor shall maintain the minimum amounts of liability insurance coverage set forth in FAR 28.307-2.

H.6 SCREENING BUSINESS INFORMATION FOR CLAIMS OF CONFIDENTIALITY (EPAAR 1552.235-70) (APR 1984)

(a) Whenever collecting information under this contract, the Contractor agrees to comply with the following requirements:

(1) If the Contractor collects information from public sources, such as books, reports, journals, periodicals, public records, or other sources that are available to the public without restriction, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(2) If the Contractor collects information from a State or local Government or from a Federal agency, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(3) If the Contractor collects information directly from a business or from a source that represents a business or businesses, such as a trade association:

(i) Before asking for the information, the Contractor shall identify itself, explain that it is performing contractual work for the Environmental Protection Agency, identify the information that it is seeking to collect, explain what will be done with the information, and give the following notice:

(A) You may, if you desire, assert a business confidentiality claim covering part or all of the information. If you do assert a claim, the information will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B.

(B) If no such claim is made at the time this information is received by the Contractor, it may be made available to the public by the Environmental Protection Agency without further notice to you

(C) The Contractor shall, in accordance with FAR Part 9, execute a written agreement regarding the limitations of the use of this information and forward a copy of the agreement to the Contracting Officer.

(ii) Upon receiving the information the Contractor shall make a written notation that the notice set out above was given to the source, by whom, in what form, and on what date

(iii) At the time the Contractor initially submits the information to the appropriate program office, the Contractor shall submit a list of these sources, identify the information according to source, and indicate whether the source made any confidentiality claim and the nature and extent of the claim.

(b) The Contractor shall keep all information collected from nonpublic sources confidential in accordance with the clause in this contract entitled "Treatment of Confidential Business Information" as if it had been furnished to the Contractor by EPA.

(c) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will require the subcontractor to collect information. The Contractor agrees to include this clause, including this paragraph (c), and the clause entitled "Treatment of Confidential Business Information" in all subcontracts awarded pursuant to this contract that require the subcontractor collect information.

H.7 TREATMENT OF CONFIDENTIAL BUSINESS INFORMATION (EPAAR 1552.235-71) (APR 1984)

(a) The Contracting Officer, after a written determination by the appropriate program office, may disclose confidential business information to the Contractor necessary to carry out the work required under this contract. The Contractor agrees to use the confidential information only under the following conditions:

(1) The Contractor and Contractor's Employees shall: (i) use the confidential information only for the purposes of carrying out the work required by the contract; (ii) not disclose the information to anyone other than EPA employees without the prior written approval of the Assistant General Counsel for Contracts and Information Law; and (iii) return to the Contracting Officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the Contracting Officer, whenever the information is no longer required by the Contractor for the performance of the work required by the contract, or upon completion of the contract.

(2) The Contractor shall obtain a written agreement to honor the above limitations from each of the Contractor's employees who will have access to the information before the employee is allowed

access

(3) The Contractor agrees that these contract conditions concerning the use and disclosure of confidential information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information

(4) The Contractor shall not use any confidential information supplied by EPA or obtained during performance hereunder to compete with any business to which the confidential information relates

(b) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will involve the disclosure of confidential business information by the Contractor to the subcontractor. The Contractor agrees to include this clause, including this paragraph (b), in all subcontracts awarded, pursuant to this contract, that require the furnishing of confidential business information to the subcontractor

H.8 TECHNICAL DIRECTION (EPAAR 1552.237-71) (APR 1984)

(a) The Project Officer will provide technical direction on contract performance. Technical direction includes:

(1) Direction to the Contractor which assists him in accomplishing the Statement of Work.

(2) Comments on and approval of reports or other deliverables

(b) Technical direction must be within the contract Statement of Work. The Project Officer does not have the authority to issue technical direction which (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in the "Changes" clause; (3) causes an increase or decrease in the estimated cost of the contract; (4) alters the period of performance; or (5) changes any of the other express terms or conditions of the contract.

(c) Technical direction will be issued in writing by the Project Officer or confirmed by him/her in writing within five (5) calendar days after verbal issuance.

H.9 KEY PERSONNEL (EPAAR 1552.237-72) (APR 1984)

(a) The Contractor shall assign to this contract the following key personnel:

Francis J Priznar
John Newman
Jeffrey Chapman
Corrinne Macaluso

Jay Gensler	William Hasselkus
Leslie White	Frank Anastasi
Karen Yates	Jan Connery
Ching Chen	Heidi Schultz

(b) During the first ninety (90) calendar days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial ninety (90) calendar day period, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 days prior to making any permanent substitutions.

(c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. This clause will be modified to reflect any approved changes of key personnel.

H.10 PAPERWORK REDUCTION ACT (EPAAR 1552.237-75) (APR 1984)

If it is established at award or subsequently becomes a contractual requirement to collect identical information from ten (10) or more public respondents, the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. applies. In that event, the Contractor shall not take any action to solicit information from any of the public respondents until notified in writing by the Contracting Officer that the required Office of Management and Budget (OMB) final clearance was received.

H.11 FABRICATION OR ACQUISITION OF NONEXPENDABLE PROPERTY (EPAAR 1552.245-72) (APR 1984)

The Contractor shall not fabricate nor acquire under this contract, either directly or indirectly through a subcontract, any item of nonexpendable property without written approval from the Contracting Officer.

H.12 SPECIAL CONTRACT REQUIREMENTS INCORPORATED BY REFERENCE (EP52.252-110) (APR 1984)

This contract incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

Federal Acquisition Regulation (FAR) clauses, if any, may be found in 48 CFR Chapter 1. Environmental Protection Agency Acquisition Regulation (EPAAR) clauses, if any, may be found in 48 CFR Chapter 15.

52.227-14	JUN 1987	RIGHTS IN DATA - GENERAL (ALTERNATE II)
52.227-16	JUN 1987	ADDITIONAL DATA REQUIREMENTS

Alternate II of FAR 52.227-14 -RIGHTS IN DATA - GENERAL, provides for inclusion of paragraph (g)(2), and as well, inclusion of the following in the LIMITED RIGHTS NOTICE:

i. Use (except for manufacture) by support service contractors,

ii. Evaluation by nongovernment evaluators,

iii. Use (except for manufacture) by other contractors participating in the Government's program if which the specific contract is a part, for information and use in connection with the work performed under this contract.

iv. Emergency repair or overhaul work.

v. Release to a foreign government, or instrumentality thereof, as the interests of the United States Government may require, for information or evaluation, or for emergency repair or overhaul work by such government.

52.227-17	JUN 1987	RIGHTS IN DATA - SPECIAL WORKS*

* This RIGHTS IN DATA clause shall be applicable only when a work assignment (s) for the development of statements of work and technical evaluation criteria are issued to the contractor.

H.13 PRESENTATIONS OF WORK UNDER THIS CONTRACT

No unauthorized presentations or remarks or release of information to the public shall be made by the Contractor's Program Officer, members of the Contractor's staff (including subcontractors and consultants), or representatives or employees of the Contractor. Prior permission for any information to be presented to the public regarding work performed under this contract shall be requested in writing, from the Contracting Officer

H.14 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL
YEAR (FAR 52.232-19) (APR 1984)

Funds are not presently available for performance under this contract beyond September 30, 1988. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond September 30, 1988, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

PART II - CONTRACT CLAUSES

SECTION I - CONTRACT CLAUSES

I.1 CLAUSES INCORPORATED BY REFERENCE (FAR 52.252-2) (APR 1984)

This contract incorporates the following clauses by reference. These clauses have the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

CLAUSE NUMBER	DATE	TITLE
52.202-1	APR 1984	DEFINITIONS
52.203-1	APR 1984	OFFICIALS NOT TO BENEFIT
52.203-3	APR 1984	GRATUITIES
52.203-5	APR 1984	COVENANT AGAINST CONTINGENT FEES
52.203-6	JUL 1985	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT
52.203-7	FEB 1987	ANTI-KICKBACK PROCEDURES
52.215-1	APR 1984	EXAMINATION OF RECORDS BY COMPTROLLER GENERAL
52.215-2	APR 1988	AUDIT -- NEGOTIATION
52.215-22	APR 1988	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA
52.215-24	APR 1985	SUBCONTRACTOR COST OR PRICING DATA
52.215-31	SEP 1987	WAIVER OF FACILITIES CAPITAL COST OF MONEY
52.215-33	JAN 1986	ORDER OF PRECEDENCE
52.216-7	APR 1984	ALLOWABLE COST AND PAYMENT
52.216-8	APR 1984	FIXED FEE
52.219-8	JUN 1985	UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS
52.219-9	APR 1984	SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN
52.219-13	AUG 1986	UTILIZATION OF WOMEN-OWNED SMALL BUSINESSES
52.220-3	APR 1984	UTILIZATION OF LABOR SURPLUS AREA CONCERNS
52.220-4	APR 1984	LABOR SURPLUS AREA

		SUBCONTRACTING PROGRAM
52.222-3	APR 1984	CONVICT LABOR
52.222-26	APR 1984	EQUAL OPPORTUNITY
52.222-28	APR 1984	EQUAL OPPORTUNITY PREAWARD CLEARANCE OF SUBCONTRACTS
52.222-35	APR 1984	AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS
52.222-36	APR 1984	AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS
52.222-37	JAN 1988	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA
52.223-2	APR 1984	CLEAN AIR AND WATER
52.224-1	APR 1984	PRIVACY ACT NOTIFICATION
52.224-2	APR 1984	PRIVACY ACT
52.227-1	APR 1984	AUTHORIZATION AND CONSENT
52.227-2	APR 1984	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT
52.232-9	APR 1984	LIMITATION ON WITHHOLDING OF PAYMENTS
52.232-17	APR 1984	INTEREST
52.232-20	APR 1984	LIMITATION OF COST
52.232-22	APR 1984	LIMITATION OF FUNDS
52.232-23	JAN 1986	ASSIGNMENT OF CLAIMS
52.233-1	APR 1984	DISPUTES ALTERNATE I (APR 1984)
52.233-3	JUN 1985	PROTEST AFTER AWARD ALTERNATE I (JUN 1985)
52.237-2	APR 1984	PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION
52.242-1	APR 1984	NOTICE OF INTENT TO DISALLOW COSTS
52.243-2	AUG 1987	CHANGES -- COST-REIMBURSEMENT ALTERNATE I (AUG 1987)
52.244-2	JUL 1985	SUBCONTRACTS (COST-REIMBURSEMENT AND LETTER CONTRACTS)
52.244-5	APR 1984	COMPETITION IN SUBCONTRACTING
52.245-1	APR 1984	PROPERTY RECORDS
52.245-5	JAN 1986	GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS)
52.245-19	APR 1984	GOVERNMENT PROPERTY FURNISHED "AS IS"
52.246-25	APR 1984	LIMITATION OF LIABILITY -- SERVICES
52.249-6	MAY 1986	TERMINATION (COST-REIMBURSEMENT)
52.249-14	APR 1984	EXCUSABLE DELAYS
52.251-1	APR 1984	GOVERNMENT SUPPLY SOURCES

I.2 OPTION TO EXTEND THE TERM OF THE CONTRACT--SERVICES (FAR 52.217-9) (APR 1984)

(a) The Government may extend the term of this contract by written notice to the Contractor within the time specified in the Schedule;

provided, that the Government shall give the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option provision.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 39.

I 3 PAYMENT FOR OVERTIME PREMIUMS (FAR 52.222-2) (APR 1984)

(a) The use of overtime is authorized under this contract if the overtime premium cost does not exceed $0. In addition to this dollar ceiling, overtime is permitted only for work--

(1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature,

(2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or

(4) That will result in lower overall costs to the Government.

(b) Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall--

(1) Identify the work unit; e.g., department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime,

(2) Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;

(3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and

(4) Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel

I.4 AUTHORIZED DEVIATIONS IN CLAUSES (FAR 52.252-6) (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any Environmental Protection Agency Acquisition Regulation (48 CFR Chapter 15) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

I.5 INSURANCE--LIABILITY TO THIRD PERSONS (DEVIATION) (FAR 52.228-7 (a) through (c) ii)

(a) (1) Except as provided in subparagraph (2) immediately following, the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Contracting Officer may require under this contract.

(2) The Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program, provided that, with respect to workers' compensation, the Contractor is qualified pursuant to statutory authority.

(3) All insurance required by this paragraph shall be in a form and amount and for those periods as the Contracting Officer may require or approve and with insurers approved by the Contracting Officer.

(b) The Contractor agrees to submit for the Contracting Officer's approval, to the extent and in the manner required by the Contracting Officer, any other insurance that is maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement.

(c) The Contractor shall be reimbursed for that portion--

(i) of the reasonable cost of insurance allocable to this contract and,

(ii) required or approved under this clause.

PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

SECTION J - LIST OF ATTACHMENTS

J 1 LIST OF ATTACHMENTS (EP52.252-100) (APR 1984)

Subcontracting Plan (Attachment A)

PART IV - REPRESENTATIONS AND INSTRUCTIONS

SECTION K - REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

The Representations, Certifications, and Other Statements of Offerors completed by the contractor as part of the response to the RFP/IFB WA 87-A364 are incorporated into this contract by reference.

(Shaded areas are for use of procurement office)

Page

US Environmental Protection Agency
Washington, DC 20460

EPA Procurement Request/Order

1. Name of Originator: Luther Mellen

2. Date of Requisition: July 7, 1988

3. Mail Code: PM-273F

4. Telephone Number: 382-3640

5. Date Item Required: A.S.A.P.

6. Signature of Originator: Luther E Mellen

7. Recommended Procurement Method: ☐ Competitive ☐ Other than full and open competition ☐ Sole source small purchase

8. Deliver To (Project Manager): Luther Mellen

9. Address: 401 M Street, S.W.

10. Mail Code: PM-273F

11. Telephone Number: 382-3640

12. Financial Data

a. Appropriation: 6880200/6820X8145

b. Servicing Finance Office Number: 99

NOTE: Item 12(d) Document Type — Contract = "C." Purchase Order = "P"

FMO Use (c) (13 digits)	DT (d)	Document Control Number (e) (6 digits)	Account Number (f) (10 digits)	Object Class (g) (4 digits)	Amount Dollars	Cents
	C	AJ0052	8A4C51H0J0	2537	52,200	00
	C	SH0057	8TER51H700	2537	37,800	00

13. Suggested Source (Name, Address, ZIP Code, Phone/Contact): TO BE ANNOUNCED AT TIME OF AWARD

14. Amount of money committed is: ☒ Original ☐ Increase ☐ Decrease

15. For Small Purchases Only: Contracting Office is authorized to exceed the amount shown in Block 12(h) by 10% or $100, whichever is less ☐ Yes ☒ No

16. Approvals

a. Branch/Office	Date	d. Property Management Officer/Designee Margaret Pfeiffer	Date 7/11/88
b. Division/Office Luther E Mellen for David J. Weitzman, Director, OHSS	Date 7/7/88	e. Other (Specify) Luther Mellen Luther E Mellen	Date 7/7/88
c. Funds listed in Block 12 and Block 15 (if any) are available and reserved (Signature of Certifying Official) Sandy K Womack POSS/Sandy Womack	Date 7/11/88	f. Other (Specify) for William Finster John C. Chamberlin, Director, OA	Date 7/7/88

17.

24. C

26. Schedule

Item Number (a)	Supplies or Services (b)	Quantity Ordered (c)	Unit (d)	Estimated Unit Price (e)	
1.	Incremental Funding for National Occupational Health and Safety/ Environmental Compliance Contract To Be Awarded Under RFP# WA87-A364			90,000	

Total $

27. United States of America
By (Signature)

28. Typed Name and Title of Contracting

Attachment A

SMALL BUSINESS & SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN IN CONNECTION WITH BOOZ, ALLEN PROPOSAL NO. 14963A
RFP NO. WA-87-A364

Booz·Allen & Hamilton Inc. is fully aware of the requirements of the referenced proposal relative to a Small Business and Small Disadvantaged Business Subcontracting Plan. Such contract-specific plan will be administered within the framework of our ongoing firm-wide small and small disadvantaged business subcontracting plan, as more particularly described herein.

I. CONTRACT-SPECIFIC PERCENTAGE GOALS

Planned subcontracting expenditures and percentage goals under RFP No. WA-87-A364 which offers participatory opportunities for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals, are as follows:

	SB($)	SDB($)	LB($)	TOTAL INDIRECT & SUBCONTRACTS
Base	$ 97,056 (24.6%)	745 (.2%)	296,304 (75.2%)	394,105
Option 1	$241,795 (15.2%)	3,027 (.2%)	1,342,818 (84.6%)	1,587,640
Option 2	$249,631 (14.5%)	3,129 (.2%)	1,463,475 (85.3%)	1,716,235
Option 3	$258,781 (14.7%)	3,232 (.1%)	1,498,330 (85.2%)	1,760,343

a. Goals are determined based upon preliminary proposal preparation and quotes from planned subcontractors.

b. Indirect material goals are determined by indirect materials purchases from small business and small disadvantaged business concerns during the previous fiscal year.

c. Small business and small disadvantaged business firms are identified through resources described in Section II and IV of this plan.

d. Indirect material requiring outside purchasing as shown in the enclosed budgets for FY 88 are as follows:

- Purchased Administrative Services
- Office Supplies Expense
- Computer Services
- Maintenance Expense

e. In establishing percentage goals for small and small disadvantaged business subcontract participation, a number of elements must be considered:

- The availability of such firms in the geographic area of performance

- The nature of the subcontract work to be performed

- The availability of small and small disadvantaged firms with the technical capabilities and facilities to perform the subcontract services

Attachment A

- Contract schedule requirements in light of the time required for identification of potential subcontractors and/or the conduct of competitive subcontract procurements.

II. ADMINISTRATION OF SUBCONTRACTING PROGRAM

Firm-wide coordination and administration of Booz·Allen & Hamilton's subcontracting program is under the cognizance and direction of an officer of the firm:

Will R. Hockersmith
Vice President, Contracts
Booz·Allen & Hamilton Inc.
4330 East West Highway
Bethesda, Maryland 20814
Phone: (301) 951-2830

Mr. Hockersmith's responsibilities relative to the small and small disadvantaged business subcontracting program include, but are not limited to:

- Maintenance of separate, central resource files for firm-wide access to small and disadvantaged subcontractors

- Working with each individual division of the firm in active implementation of this subcontract program, including moinitoring of divisional goals

  - Establishment and monitoring of recordkeeping and reporting procedures, including:

a. Above stated central resource files

b. Outside requests, recommendations, institutional and organizational reference lists for both small and small disadvantaged businesses

c. Separate records for all solicitations over $100,000 indicating whether both small and small disadvantaged businesses were considered and awarded and if not, why

d. Firm-wide and divisional records chronologically detailing contacts with trade associations, business development organizations, and special interest groups representing small and small disadvantaged businesses. Additionally, records are kept through BA&H personnel regarding firm-wide as well as divisional participation in small and small disadvantaged business utilization seminars and training courses.

- Dissemination of policy guidelines and information relative to Public Law 95-507 and the utilization of small and small disadvantaged businesses.

- Evaluation of business systems of small and small disadvantaged firms and assistance to participating subcontractors in bringing systems to sufficient level of compliance with Government procurement regulations.

USE OR DISCLOSURE OF [illegible] DATA IS SUBJECT TO THE
RESTRICTION ON THE [illegible] OF THIS [illegible]

Attachment A

The small and small disadvantaged business subcontracting program, as specifically related to the instant contract, will be administered by:

Mr. Robert Loder
Director, Government Liaison
Booz·Allen & Hamilton Inc.
4330 East West Highway
Bethesda, Maryland 20814
Phone: (301) 951-2825

Mr. Loder's duties in respect to the subcontract program include, but are not limited to:

- The identification and solicitation of small and small disadvantaged firms whose capabilities make them potential subcontractors under the instant prime contract, and records maintenance regarding their involvement
- Advertising and dissemination of opportunity notices to small and small disadvantaged businesses for subcontract participation, as well as consultation designed to encourage their eligibility
- Preparation of competitive solicitations for subcontracts, where applicable, in such manner as to:
    - Simplify response requirements to the maximum extent possible within program demands
    - Maximize time for response consistent with program schedule
    - Minimize exclusionary qualifications or evaluation factors
    - Maximize eligibility by both small and small disadvantaged businesses
- Provide, within the maximum extent allowable for fair competition, information and clarification of response requirements to encourage small and small disadvantaged subcontractor participation
- Administration of any resulting subcontract in such manner as to assist and advise the small or small disadvantaged subcontractor in successful performance, consistent with prime contract requirements
- Evaluation of subcontract performance in a constructive manner as reference for future participation of the particular firm(s) as subcontractor(s) to Booz·Allen
- Monitoring activities to evaluate compliance.

III. EFFORTS TO ASSURE EQUITABLE COMPETITIVE PARTICIPATION TO SMALL AND SMALL DISADVANTAGED FIRMS

Booz·Allen & Hamilton's program to assure equitable competitive participation to small and small disadvantaged firms consists of the following elements:

[illegible]

Attachment A

In order to identify small and small disadvantaged firms as potential subcontractors and to assure that notices of subcontracting opportunities are provided on a regular basis, a number of sources are utilized.

- Booz·Allen is a member of and actively participates in the National and a number of local chapters of the Minority Purchasing Council.

- Resource lists of small and small disadvantaged business enterprises are regularly consulted, among them the following organizations' listings:

    - Latin American Manufacturers Association
    - National Association of Black Manufacturers
    - National Association of Minority CPA Firms
    - National Minority Business Campaign
    - Office of Minority Business Enterprise (OMBE)
    - National Business League
    - Black Enterprise, Inc.

In addition to the records maintenance described in Section II of this plan,

- Booz·Allen has employed a consulting firm, itself a small business owned and controlled by socially and economically disadvantaged individuals, to identify small and small disadvantaged firms which may participate as subcontractors, to evaluate the capabilities of such firms, and to provide counsel and assistance to participating small and small disadvantaged business subcontractors in matters of subcontract compliance. This firm is:

Consulting Research & Marketing Associates
200 South Eads Street, Suite 715
Arlington, VA 22022

IV. RECORDS MAINTENANCE

Booz·Allen requires each of its ongoing and prospective subcontractors/suppliers to execute the certification which is attached as part of any proposal submitted to this firm by a potential subcontractor. Responses allow categorization, both by category of business and individual firm, and allow tracking of total responses to competitive solicitations (number and volume) as well as total subcontracts let by subcontractor category and individually. From this data base, we are able to determine percentage participation as well as gross volume of each type of subcontracting firm. Additionally, records are maintained relative to those small and small disadvantaged firms who are provided with opportunities to bid, but from whom no response is received, as well as responses received, but which are rejected.

Employees of our Purchasing and Contracts Department, who are responsible for the maintenance of our records, continually attend workshops, seminars and participate in internal training programs. For example, our buyers in the Purchasing Department are members of the Metropolitan Washington Purchasing Council and keep abreast of small and small disadvantaged business problems.

[illegible] DATA IS SUBJECT TO THE
RESTRICTION ON THE TITLE PAGE OF THIS PROPOSAL/QUOTATION.

Attachment A

We have identified specific maintenance of records under the responsibilities of Mr. Hockersmith and Mr. Loder in their respective responsibilities. These records are available daily and reviewed weekly and monthly to evaluate compliance.

Booz·Allen is cognizant of the fact that "small" and "small disadvantaged" businesses must be differentiated and each afforded opportunity for subcontracting participation. Accordingly, all records previously described are separately maintained.

V. PROGRAM ASSURANCES

As a standard policy of Booz·Allen & Hamilton Inc., all subcontracts issued by this firm will include the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals in all subcontracts which offer further subcontracting opportunities and to require all subcontractors (except small business concerns) who receive subcontracts in excess of $500,000, or in the case of a contract for the construction of any public facility, $1,000,000 to adopt a plan similar to the plan agreed to by Booz·Allen. Booz·Allen will submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency or the Small Business Administration in order to determine the extent of compliance with the subcontracting plan.

Goals set forth in this plan are based on information available as of the date of the proposal. All goals will be increased or decreased proportionately, should the Contracting Officer alter the original scope of the contract.

Carl R. [illegible] for
W.R. Hockersmith
Vice President, Contracts

USE OR DISCLOSURE OF QUOTATION DATA IS SUBJECT TO THE RESTRICTION ON THE TITLE PAGE OF THIS PROPOSAL/QUOTATION.

Enclosure 7

ENVIRONMENTAL PROTEC...

CONTRACTOR .: Booz Allen & Hamilton   EPA CONTRACT NO. : 68-W8-0097

WORK ASSIGNMENT NO.: 005   AMENDMENT NO. : N/A

☒ Original Assignment   ☐ Work Plan Approval   ☐ Work Assignment Amendment

☐ Work Plan Approval (Conditional as attached) Revised Work Plan ☐ is ☐ is not requir

WORK ASSIGNMENT

The Contractor shall furnish facilities, materials, and the necessary professional, technical, and supporting personnel for performance of the work required by this Work Assignment, described in the attached Statement of Work in accordance with the Terms and Conditions of the contract.

TITLE: National Technical Assistance Contract Environmental Auditing Support

	PREVIOUS	THIS ACTION	TOTAL
LEVEL OF EFFORT (Direct Labor Hours) :		~~[illegible]~~ 1,400	~~[illegible]~~ 1,400

PERIOD OF PERFORMANCE : From Effective Date To ~~December 18,~~ September 30, 1988

CONTRACT SPECIALIST : Sharon Becker Phone No: (202)
Environmental Protection Agency
401 M Street, S.W. (PM-214-F)
Washington, D.C. 20460

PROJECT OFFICER : Luther Mellen Phone No: (202)
Environmental Protection Agency
401 M Street, S.W. (PM-273F)
Washington, D.C. 20460

ACCOUNTING DATA :
8A4C51 HOJO ~~$[illegible]~~ 49,080
8TER51 H700 ~~$[illegible]~~ 10,920
[illegible]

	PM 273F	382-3646	8/15/88
Requestor's Signature	Org Code	Telephone	Date

APPROVALS (as applicable)	Signature	Date
Branch Chief		8/15/88
Division Chief	Luther E. Mellen for	8/15/88
Project Officer	Luther E Mellen	8/15/88
Work Assignment Manager		8/16/88
Contracting Officer	Robert J Rothenberger	8/18/88

*The EFFECTIVE DATE is the Contracting Officer's signature date unless otherwise specified

CONTRACTOR ACKNOWLEDGEMENT OF RECEIPT

8/23/88
Date

Acknowledgement

ENVIRONMENTAL PROTECTION AGE.

CONTRACTOR.: Booz Allen & Hamilton EPA CONTRACT NO. : 68-W8-0097

WORK ASSIGNMENT NO.: 005 AMENDMENT NO. : N/A

☒ Original Assignment ☐ Work Plan Approval ☐ Work Assignment Amendment

☐ Work Plan Approval (Conditional as attached) Revised Work Plan ☐ is ☐ is not requir

WORK ASSIGNMENT

The Contractor shall furnish facilities, materials, and the necessary professional, technical, and supporting personnel for performance of the work required by this Work Assignment, described in the attached Statement of Work in accordance with the Terms and Conditions of the contract.

TITLE: National Technical Assistance Contract Environmental Auditing Support

	PREVIOUS	THIS ACTION	TOTAL
LEVEL OF EFFORT (Direct Labor Hours) :		1,400 ~~2,300~~	1,400 ~~2,300~~

PERIOD OF PERFORMANCE : From Effective Date To September 30, ~~December 10,~~ 1988

CONTRACT SPECIALIST : Sharon Becker Phone No: (202)
Environmental Protection Agency
401 M Street, S.W. (PM-214-F)
Washington, D.C. 20460

PROJECT OFFICER : Luther Mellen Phone No: (202)
Environmental Protection Agency
401 M Street, S.W. (PM-273F)
Washington, D.C. 20460

ACCOUNTING DATA : 8A4C51 HOJO $[redacted] 49,080
8TER51 H700 $[redacted] 10,920

	PM 273F	382-3646	8/15/88
Requestor's Signature	Org Code	Telephone	Date

APPROVALS (as applicable)	Signature	Date
Branch Chief		8/15/88
Division Chief	Luther E Mellen for	8/15/88
Project Officer	Luther E Mellen	8/15/88
Work Assignment Manager		8/16/88
Contracting Officer	Robert J. Rothenberger	8/18/88

*The EFFECTIVE DATE is the Contracting Officer's signature date unless otherwise specified

CONTRACTOR ACKNOWLEDGEMENT OF RECEIPT

Date

Acknowledgement

ENVIRONMENTAL AUDITING SUPPORT RELATED TO ENVIRONMENTAL COMPLIANCE AT EPA LABORATORY FACILITIES

STATEMENT OF WORK

Purpose of Effort

The U.S. Environmental Protection Agency's Occupational Health and Safety Staff (OHSS) will issue a work assignment under contract 68-W8-0097. The contractor will perform a series of environmental audits for selected EPA laboratory facilities to evaluate the effectiveness of current environmental compliance programs. The contractor will assess the individual programs by determining the facility's compliance with applicable Federal, State, and local laws and regulations and by analyzing current management practices related to environmental compliance. As a result of this work, the contractor will communicate verbally and in writing the findings at each facility and provide recommendations to facility and program management on methods of improving current practices. The beneficial outcome of this effort will be increased awareness of all applicable environmental regulations and an improved ability to identify and understand current and anticipated facility resource requirements.

Estimated Period of Performance

The Environmental Compliance Program will issue a work assignment under contract 68-W8-0097. The period of performance will begin on the effective date of the work assignment and will extend until September 30, 1988.

Key EPA Personnel

Title	Name, Address, Phone No.	Responsibility
Task Manager	Howard Wilson U.S. EPA, OHSS 401 M St., SW PM-273 Washington, D.C. 20460 (202) 382-3646	Overall task management
Assistant Task Manager	Stephen Buchanan U.S. EPA, OHSS 401 M St., SW	Assistant task management

	Washington, D.C. 20460 (202) 382-3646	
Project Officer	Luther Mellen U.S. EPA, OHSS 401 M St., SW PM-273 Washington, D.C. 20460	Overall project management

Background

EPA has 39 laboratories across the country involved in a variety of activities supporting the Agency's mission. These activities include: 1) the analysis of samples in support of investigations conducted by the RCRA, Superfund and Water programs; 2) developing risk assessment techniques including bioassays involving Superfund and RCRA wastes; 3) conducting treatability studies for waste from Superfund sites; and 4) evaluating new technologies for investigating Superfund sites. These activities require permits or authorization, generate regulated waste and require compliance with special offsite disposal requirements as provided for Superfund waste.

EPA is committed to develop and implement an effective program for the improvement of environmental compliance at all EPA laboratories. EPA's Occupational Health and Safety Staff (OHSS) is charged with the responsibility of directing this effort for FY'88 and beyond.

A primary goal of the OHSS is to develop and implement a pro-active environmental compliance program to help EPA meet its commitment to achieve exemplary environmental compliance at all its facilities while they continue to meet the analytical and research needs of the Agency. Specific areas of focus include:

- Identification of individual facility compliance/non-compliance with applicable Federal, State, and local laws and regulations;
- Communication of potential or existing problems to facility and program management to facilitate corrective action;
- Providing guidance for improvement of environmental compliance programs;
- Providing technical support for the implementation of corrective actions, either regulatory or involving building and facility projects.

In addition, OHSS is responsible for providing training and guidance to laboratory facility Environmental Compliance Managers. The information obtained through the environmental audit will facilitate tailoring the training and guidance efforts to those areas of special interest to EPA.

Work Statement

The objectives of the effort described by this work statement are as follows:

1. Conduct environmental audits of the following EPA facilities:
    - Motor Vehicle Emissions Laboratory Ann Arbor, MI / Grosse Ile Ecological Research Station, Gross Ile, MI
    - Corvallis Environmental Research Laboratory Corvallis, OR / Pacific Division Environmental Research Laboratory, Newport, OR
    - Region 6 Environmental Service Division (ESD) Laboratory, Houston, TX
    - Region 7 ESD Laboratory, Kansas City, MO
    - Las Vegas Laboratories, Las Vegas, NV
    - Region 1 (ESD) Laboratory, Lexington, MA
    - Environmental Photographic Interpretation Center, Warrenton, Virginia

Each environmental audit will:

- evaluate the effectiveness of the environmental compliance program at EPA facilities based on past and present practices;
- identify the applicability of new and existing environmental laws and regulations at EPA facilities;
- identify training and guidance needs, and recommend methods for improving facility management regarding regulatory compliance practices;
- assist the environmental compliance program in prioritizing regulatory technical assistance to EPA facilities;
- assist in the communication of environmental compliance information both within and outside

the Agency.

To accomplish these objectives, the contractor will be required to complete the following tasks.

TASKS

1. Develop a task workplan based on this scope of work according to the provisions of the contract. In the workplan, the contractor shall prescribe how all steps will be carried out, including a brief description of each step, the approach to completing each step, milestones, reports and deliverables, potential problem areas, and any assumptions. The workplan shall also include a detailed budget, including a breakout for labor hours and other direct costs, and shall note the rationale for any change from the budget ordered in this statement of work.

2. Gather preliminary background information for each facility audit. Preaudit information packages shall be utilized to obtain specific environmental compliance data before each audit. Additional background information including environmental compliance files, reports from compliance reviews or audits, and any applicable State and local regulations will also be obtained for each facility.

3. Collect data for the facilities in order to:

   o Evaluate the adequacy and effectiveness of current EPA audit protocols

   o Determine the compliance status of the selected facility with Federal, State, and local environmental laws and regulations

   o Evaluate the effectiveness of environmental management programs already in place

   o Assess risks from regulated and unregulated practices.

The contractor will submit a draft report of findings to the Overall Task Manager within ten (10) days of the completion of each visit. Three (3) bound original copies with pictures of the report will be supplied to the Task Manager. The reports will allow for evaluations and recommendations regarding the viability of the audit protocols as well as include facility-specific compliance information. In addition, the reports will include all pertinent data forms from the environmental auditing protocols including preauditing materials, checklists, worksheets, and questionnaires. Also, field notes, photographs, and all other information and materials gathered during the audit will be submitted as appendices or submitted separately if so requested by the Task Manager.

4. Complete the facility profile information form for each facility being audited. The facility profile form will be supplied by the EPA Task Manager.

5. Evaluate the existing questionnaire, protocols, and preaudit materials used in the environmental auditing program. The contractor under this work assignment will work with the Task Managers to revise the auditing protocol for the land ban restrictions.

6. Provide modifications to the database to provide efficient data entry.

Schedule of Deliverables:

Deliverables	Time Due (weeks from start date of Work Assignment
1. Project Workplan	2
2. Audit Reports A) Draft	10 days after audit
3. Briefing Recommending Revisions to Audit Materials	10 days after draft report for 3rd audit
4. Revised Auditing Protocol	4 weeks after deliverable 3

General Reporting Requirements:

Monthly Reports -- Within the first 15 days of each month, the contractor shall provide financial and task reports (covering the previous month's period of performance) as specified in the contract.

Additional Reports -- The contractor shall meet weekly with the Task Manager for oral status reports. At a minimum, these meetings shall cover progress to date, any problems, work planned for the next period, and any proposed changes in approach or staffing.

Invoicing -- With each invoice, the contractor shall include a copy of the monthly financial and project progress report for the relevant period of performance. The contractor shall also include a breakdown of hours worked by individual persons identifying specific audits or other tasks identified in persons identifying specific audits or other tasks identified in the work assignment. Under Task 2 or 3 the specific facility should be identified.

Labor Estimate:

Approximately 1,400 professional hours will be required for assignment completion.

Enclosure 8

CONTRACTOR : Booz, Allen & Hamilton Inc.   EPA CONTRACT NO. : 68-W8-0097

WORK ASSIGNMENT NO.: 017   AMENDMENT NO. : N/A

☒ Original Assignment   ☐ Work Plan Approval   ☐ Work Assignment Amendment

☐ Work Plan Approval (Conditional as attached) Revised Work Plan ☐ is ☐ is not required

WORK ASSIGNMENT

The Contractor shall furnish facilities, materials, and the necessary professional, technical, and supporting personnel for performance of the work required by this Work Assignment, described in the attached Statement of Work in accordance with the Terms and Conditions of the contract.

TITLE: General Environmental Compliance Support

	PREVIOUS	THIS ACTION	TOTAL
LEVEL OF EFFORT (Direct Labor Hours) :		530	530

PERIOD OF PERFORMANCE : From Effective date To November 15, 1988

CONTRACT SPECIALIST : Sharon Becker Phone No: (202) 475-8287
Environmental Protection Agency
401 M Street, S.W. (PM-214-F)
Washington, D.C. 20460

PROJECT OFFICER : Luther Mellen Phone No: (202) 382-3647
Environmental Protection Agency
401 M Street, S.W. (PM273F)
Washington, D.C. 20460

ACCOUNTING DATA : 6890200/9A4C51H0J0 $16,240
68X8145/9TER51H700 $11,760

Requestor's Signature	PM-273F Org Code	382-3646 Telephone	Date
APPROVALS (as applicable)	Signature		Date
Branch Chief			10-3-88
Division Chief	David J. [illegible]		10-3-88
Project Officer	Luther E. Mellen		10/3/88
Work Assignment Manager			10-3-88
Contracting Officer	Sharon M. Becker		10/18/88

*The EFFECTIVE DATE is the Contracting Officer's signature date unless otherwise specified

CONTRACTOR ACKNOWLEDGEMENT OF RECEIPT

Date   Acknowledgement

WORK ASSIGNMENT 017

General Environmental Compliance Support

SUMMARY

EHSD requires management support for its environmental compliance programs. This work assignment provides for the completion of environmental audit reports for audits conducted in Fiscal Year 1988 and support for an environmental compliance conference and workshop.

STATEMENT OF WORK

Background

The Environmental Health and Safety Division is responsible for coordination of health and safety and environmental compliance for EPA-owned or -operated facilities. Two methods used by EHSD to provide assistance to EPA facilities are environmental compliance audits and the conducting of conferences and workshops.

Objectives

The objectives of this work assignment are to:

- Complete all remaining FY 1988 audit reports
- Provide planning assistance for an environmental compliance conference and workshop.

Estimated Period of Performance

The period of performance will begin on the effective date of the work assignment and will continue through November 15, 1988.

Key EPA Staff

Title	Name, Address, Phone	Responsibility
Work Assignment Manager	Howard Wilson U.S. EPA,OARM,EHSD PM-273-F 401 M Street, SW Washington, DC 20460 (202)382-3640	Work Assignment Management

Title	Name, Address, Phone	Responsibility
Project Officer	Luther Mellen U.S. EPA,OARM,EHSD PM-273-F 401 M Street, SW Washington, DC 20460 (202)382-3640	Overall Project Management
Contract Specialist	Sharon Becker U.S. EPA,Contracts PM-214-F 401 M Street, SW Washington, DC 20460 (202)475-8789	Overall Contract Management

Task Descriptions and Deliverables

To accomplish the objectives specified in this Work Assignment, the Contractor will be required to complete the following tasks.

Task 1 - Workplan Development

The Contractor shall develop a workplan based on the scope of work and according to the provisions of the contract. The workplan shall describe the tasks, the approach to completing each task, milestones, reports, deliverables, anticipated problems and assumptions, if any. The workplan shall also include a detailed budget, including the breakout for labor hours, other direct costs and travel, and the rationale for any changes from the budget ordered in this statement of work.

Task 2 - Complete Remaining FY1988 Audit Reports

The Contractor shall complete remaining draft and final audit reports for environmental compliance audits conducted in FY 1988. The Contractor shall incorporate EHSD comments already provided on previously submitted draft reports and complete draft and final versions of remaining reports.

Deliverable 2: Remaining FY88 Audit Reports

Task 3 - Provide Planning Support For Conference and Workshop

The Contractor shall provide EHSD with coordination and planning support for a National environmental compliance conference and workshop scheduled for later in the year.

Schedule of Deliverables

Deliverable	Date Due
1. Project Workplan	October 10
2. Audit Reports	November 15

Labor Estimate

Approximately 530 professional labor hours will be required for the completion of this assignment.

[illegible] Enclosure 9

CONTRACTOR : BOOZ, ALLEN ând HAMILTON EPA CONTRACT NO. :

WORK ASSIGNMENT NO.: 31 AMENDMENT NO. : -

☒ Original Assignment ☐ Work Plan Approval ☐ Work Assignment Amendment

☐ Work Plan Approval (Conditional as attached) Revised Work Plan ☐ is ☐ is not required

WORK ASSIGNMENT

The Contractor shall furnish facilities, materials, and the necessary professional, technical, and supporting personnel for performance of the work required by this Work Assignment, described in the attached Statement of Work in accordance with the Terms and Conditions of the contract.

TITLE: TECHNICAL SUPPORT FOR THE ENVIRONEMNTAL COMPLIANCE PROGRAM

	PREVIOUS	THIS ACTION	TOTAL
LEVEL OF EFFORT (Direct Labor Hours) :		4,300	4,300

PERIOD OF PERFORMANCE : From To Sept. 30, 1989

CONTRACT SPECIALIST : Sharon Becker Phone No: (202) 475-6696
Environmental Protection Agency
401 M Street, S.W. (PM-214-F)
Washington, D.C. 20460

PROJECT OFFICER : Stepehn Buchanan Phone No: (202) 382-3640
Environmental Protection Agency
401 M Street, S.W. (PM-273F)
Washington, D.C. 20460

ACCOUNTING DATA :
6890200 H50037 9A4C51HOJO
6820X8145 H50037 9TER51H700

	OA/EHSD	382-3648	4/6/89
Requestor's Signature	Org Code	Telephone	Date

APPROVALS (as applicable)	Signature	Date
Branch Chief		
Division Chief		
Project Officer		4/6/89
Work Assignment Manager		4/6/89
Contracting Officer	Sharon M Becker	4/13/89

*The EFFECTIVE DATE is the Contracting Officer's signature date unless otherwise specified

CONTRACTOR ACKNOWLEDGEMENT OF RECEIPT

Date

Acknowledgement

WORK ASSIGNMENT 31

Technical Support for the Environmental Compliance Program

SUMMARY

EHSD is responsible for Health & Safety and Environmental Compliance Programs at EPA facilities. This work assignment requests technical support for the Environmental Compliance Program. The work assignment provides for the completion of eleven environmental audits during fiscal year 1989. Additionally, it asks for the preparation of technical assistance materials, identified by previous audits as necessary for effective environmental compliance programs at EPA laboratories.

STATEMENT OF WORK

Background

EPA laboratories provide support in varying degrees to all EPA programs. These support operations require that they comply with all environmental statutes and regulations. The quantity of regulations that are applicable to EPA laboratories have increased because of the promulgation of new regulations and the increasing support the laboratories are providing to the Superfund Program. EPA regional laboratories support the Superfund program by conducting analyses of samples from initial and remedial remedial investigations of Superfund sites, providing data that supports risk assessments and conducting research on the acceptability of on-site treatment technologies. This laboratory support generates waste, requires permits and specific storage and disposal procedures that are contained in environmental regulations.

The Environmental Health and Safety Division is responsible for coordinating EPA's Environmental Compliance Program for all EPA facilities. The tasks in this work assignment are necessary to insure regulatory compliance at EPA laboratories and maintain their availability to support Superfund and other Agency programs. Two of the most important methods used by the ECP to provide assistance to EPA facilities are environmental compliance audits and technical guidance/assistance materials.

Objectives

The objectives of this work assignment are to:

- o Identify the environmental compliance status of EPA laboratories.
- o Provide technical assistance materials to Environmental Compliance Program personnel.

Estimated Period of Performance

The period of performance will begin on the effective date of the work assignment and will continue through September 30, 1989.

Key EPA Staff

Title	Name, Address, Phone	Responsibility
Work Assignment Manager	Howard Wilson U.S. EPA\OARM,EHSD PM-273F 401 M St., SW Washington, DC 20460 (202)382-3640	Management of work assignment
Project Officer	Stephen Buchanan U.S. EPA\OARM,EHSD PM-273F 401 M St., SW Washington, DC 20460 (202) 382-3640	Overall Project Management
Contract Specialist	Sharon Becker U.S. EPA/OARM/PCMD PM-214F 401 M St., SW Washington, DC 20460 (202) 475-6696	Overall Contract Management

Task Descriptions and Deliverables

To accomplish the objectives specified in the Work Assignment, the Contractor will be required to complete the following tasks.

Task 1 - Eleven Environmental Audits

The Contractor shall conduct environmental compliance audits at eleven EPA facilities (see Appendix A). Facilities to be reviewed will be selected by the EPA work assignment manager. In performing the audits the following tasks will be required:

1. Gather information from existing files and EPA program staff to establish previous findings and corrective actions for each facility being audited.

   Review existing facility profile information and determine if it is complete for the eleven sites selected for auditing.

2. Prepare a schedule for visiting the selected sites. The schedule shall include dates and in-briefing and exit-briefing times. Regional office space will be surveyed on at least two of the eleven audits.

3. Obtain information packages from each facility selected for auditing, as well as applicable state and local regulations that may impact the facility. The information shall be reviewed prior to the audit.

4. Collect data during each audit to: evaluate the laboratory's compliance with the Superfund Off-site Policy and other applicable regulations and policies, verify that proposed corrective actions have been implemented and validate previously collected facility profile information.

5. Submit a draft report of findings to the Work Assignment Manager within ten (10) days of the completion of each facility visit. The final report is due ten (10) days after receiving comments from the Work Assignment Manager. The reports will allow for evaluations and recommendations regarding the viability of the facility-specific information. The reports will include all pertinent data from the auditing process. Field notes, photographs, drawings, and all other information and materials gathered during the survey will be submitted separately.

6. Make minor revisions to previous audit report(s) that may be required as a result of these audits. The contractor shall revise reports as required and provide new page(s) for all copies.

7. Review and modify the audit report format to ensure its compatibility with the data entry procedures for the Environmental Compliance Program's audit tracking system.

8. Enter data from each of the eleven audits and for audits previously conducted that are not contained in the database, into the audit tracking system. The contractor shall also enter the corrective action information submitted in response to environmental audits conducted in fiscal year 1988.

The contractor shall also provide facility profile information for each facility in the database and implement a quality assurance program for all data entered into the audit tracking system.

9. Prepare a final report, in briefing format, that summarizes the information acquired during the course of the FY '89 auditing. The report will also identify standard reports that could be supported by this information and could assist EHSD in prioritizing its policy, guidance, and training activities in support of EPA facilities.

Deliverable 1: Eleven environmental audit reports

Deliverable 2: Updated Data File

Deliverable 3: Audit Summary Report

Task 2 - Revised Environmental Auditing Protocol

The Contractor shall revise the EPA Environmental Auditing Protocol to reflect the latest regulatory requirements that may impact EPA facilities. Also, the revised protocol should include Policy requirements contained in the Environmental Compliance Manual.

Deliverable 4 - Draft Revised Protocol

Deliverable 5 - Final Revised Protocol

TASK 3 - Technical Assistance Materials

The Contractor shall develop technical guidance materials to support the operation of EHSD's Environmental Compliance Program. Several of these materials will be distributed to EPA laboratories to assist them in implementing environmental compliance programs at their facilities. The materials to be developed are as follows:

3-1. Summary fact sheets, known as Environmental Alerts, will be required for specific environmental topics. Topics will be selected by the Work Assignment Manager. Initially, one alert will be required. An undetermined number of additional alerts may be requested. Alerts must be in a format described by the Work Assignment Manager.

Deliverable 6 - Environmental Alerts (one to three alerts)

3-2. Biweekly summary documents describing the major components of new and proposed regulations for fiscal year 1989. The summaries should identify the costs and timeframes for implementing those regulations affecting EPA laboratories.

The summaries shall also identify issues that require clarification or comment. A separate summary that only describes the major components of new and proposed regulations will be provided for distribution to EPA laboratories.

Deliverable 7 - Biweekly Regulatory review Documents

3-3. Diagrammed analytical methods for inclusion into the existing Waste Streams Classification Document and RCRA Chapter of the Environmental Compliance Manual. The contractor should identify the most prevalent methods used by EPA laboratories and an estimate of the waste generated by the methods. The contractor shall review methods used by EPA Research, Regional and Program laboratories in identifying the most prevalent methods.

The work assignment manager will select as many as five (5) analytical methods that the contractor will diagram.

A draft report of the selected analytical methods will be prepared and submitted to the work assignment manager.

Deliverable 8 - Draft Report on Analytical Method Classifications

Upon approval of the draft report by the work assignment manager, the Contractor will prepare a final report to be incorporated into the existing Waste Stream Document and the RCRA Chapter of the Environmental Compliance Manual.

Deliverable 9 - Final Report on Analytical Methods

3-4. A training module that describes the Federal Agency Pollution Abatement Planning Process that is described by OMB Circular A-106.

Specific requirements for the training module format and its technical content will be described by the Work Assignment Manager.

Deliverable 10 - Draft A-106 Training Module

Upon approval of the draft training module by the work assignment manager, a final training module will be produced.

Deliverable 11 - Final A-106 Training Module

3-5. Four final Environmental Compliance Program Manual Chapters in camera-ready form for copying and distribution. The chapters currently exist in draft form. The contractor will incorporate comments received during the Agency's green border review process and prepare the final chapters discussed above.

Deliverable 12 - Final ECP Manual Chapters

Schedule of Deliverables	Time due (weeks from effective date of the work assignment
Deliverable	
1. Environmental Audit Reports	complete all within 20 weeks
(Draft)	10 Days after Audit
(Final)	TBD
2. Updated Data File	20 (continuous with audits)
3. Audit Summary Report	22
4. Draft Revised Protocol	4
5. Final Revised Protocol	22
6. Environmental Alert(s)	8
7. Regulatory Review Documents	Biweekly
8. Draft Report of additional methods	14
9. Final Report of additional methods	18
10. Draft A-106 Training Module	12
11. Final A-106 Training Module	16
12. Final ECP Manual Chapters	20

General Reporting Requiremnts

Monthly Reports -- Within the first 15 days of each months, the contractor shall provide financial and task reports (covering the previous month's period of performance) as specified in the contract.

Additional Reports -- The contractor shall meet weekly with the Task Manager for verbal status reports. At a minimum, these meetings shall cover progress to date, any problems, work planned for the next period, and any proposed changes in approach or staffing. These status reports can be given over the phone.

Labor Estimate -- Approximately 4,300 professional hours will be required for this work assignment.

APPENDIX A

List of Facilities to be audited under Work Assignment 31

1. Beltsville, MD
2. Region 2 Facilities
3. Regional 3 Facilities
4. Center Hill
5. AWBERC, OH
6. Newtown, OH
7. Testing and Evaluation Facility
8. Region 5 Office, Chicago, IL
9. Ada, OK
10. Combustion Research Facility, AR
11. Athens, GA

RESPONSES TO WRITTEN QUESTIONS FROM SENATOR PRYOR

BY STEPHEN A. WAKEFIELD

Question 1: Your prepared statement refers to the "5-year plan for environmental cleanup, compliance, and waste management activities." Please provide a list of all contractors (including subcontractors) relied on by DOE for assistance in the preparation of the Plan, and indicate the work performed and the amount of the contract. In addition, please describe any services each contractor has provided to any of the DOE facilities that are to be cleaned up (e.g., Savannah River, Fernald, etc.) and/or to any contractor which has operated these facilities (e.g., Rockwell, DuPont, Union Carbide, etc.)

Answer: Attached is a list of the contractors who supported the work of the Five Year Plan. BDM International Inc. (BDM), Science Applications International Corporation (SAIC), NJG Inc. (NJG), and Management Systems Laboratories (MSL) are contractors with local Washington, D.C., offices that have been hired to support DOE Headquarters.

The contractors from HAZWRAP, Oak Ridge National Laboratory (ORNL), Pacific Northwest Laboratory (PNL), Kaiser-Engineering, EG&G Inc., and Sandia National Laboratories (SNL) are members of contracting firms working at the DOE Oak Ridge, Richland, Rocky Flats and Albuquerque offices.

The nature of the work in assisting DOE to prepare its Five Year Plan involved technical assessment, preparation of issue specific background information, administrative support, and document preparation. These functions were

Answer 1
(continued): performed on a task order basis under existing support service contracts.

Those contractors who additionally support field offices or prime contractors operating DOE facilities have detailed disclosure statements maintained in the official contract files. These statements are required by DOE acquisition regulations and were reviewed prior to contract award.

We are developing a list of contractors, costs, and tasks performed at field offices that are to be cleaned up and will provide it to you as soon as it is available.

SUMMARY FOR ALL CONTRACTORS

Environmental Restoration and Waste Management
Five-Year Plan - Task Force Support
December 15, 1989 - May 30, 1990

SUMMARY

	Labor Cost
ENVIRONMENTAL RESTORATION	$ 417,423
WASTE OPERATIONS AND CORRECTIVE ACTIVITIES	236,294
TECHNOLOGY DEVELOPMENT AND TRANSPORTATION	375,639
EDITORIAL	115,200
DOCUMENT SUPPORT	604,968
Total	$1,749,524

BREAKDOWN OF COSTS

ENVIRONMENTAL RESTORATION

Contractor	Labor Cost	
BDM	$ 83,799	
HAZWRAP	108,592	
MSL	30,000	
SAIC	159,032	
WESTINGHOUSE	36,000	$ 417,423

WASTE OPERATIONS AND CORRECTIVE ACTIVITIES

Contractor	Labor Cost	
BDM	$ 24,432	
EG&G	25,000	
HAZWRAP	7,261	
H&R	79,265	
SAIC	100,336	$ 236,294

TECHNOLOGY DEVELOPMENT AND TRANSPORTATION

Contractor	Labor Cost	
BDM	$ 56,182	
EG&G	30,000	
HAZWRAP	8,670	
KAISER ENGINEERING	2,000	
MM	82,000	
ORNL	51,000	
PNL	46,000	
SAIC	36,537	
SNL	52,000	
WESTINGHOUSE	11,250	$ 375,639

Environmental Restoration and Waste Management
Five-Year Plan - Task Force Support
December 15, 1989 - May 30, 1990

EDITORIAL

HAZWRAP	$ 41,216	
MM	12,435	
NJG	9,549	
MSL	52,000	$ 115,200

DOCUMENT SUPPORT

	Contractor	Labor Cost	
Management	BDM	$ 21,681	
Data Base	BDM	144,327	
Document Control	BDM	30,396	
External Coordination	BDM	52,308	
Graphics	ANALYSAS	65,605	
Graphics	BDM	22,306	
Graphics	NJG	55,635	
Logistical Support	NJG	45,725	
Office Support	NJG	162,746	
Temps	NJG	4,239	$ 604,968

Total Task Force Support $1,749,524

QUESTIONS FROM SENATOR PRYOR

Question 2:	Your prepared testimony refers to the "Tiger Teams" deployed to assess DOE facilities. Please provide a list of all contractors (including subcontractors) relied on by DOE to staff the Tiger Teams, and please state whether each contractor (including its affiliates) has ever worked for any of the facilities investigated by the Tiger Teams, and/or for any of the contractors that have operated them.
Response:	Department of Energy facilities are operated by Management and Operating (M&O) contractors, under the direction of DOE Operations and Area Offices. M&O contractors such as Westinghouse, EG&G, the University of California, etc., provide the management structure and personnel to operate the facilities physically. The Tiger Team Assessment program is designed to assess the current compliance status of environment, safety and health conditions at DOE's facilities, which are operated by the M&O contractors. This includes assuring that the facilities are being managed in a manner consistent with Federal, state and local environment, safety and health regulations and requirements, DOE orders, consent decrees and enforcement orders, and other regulatory requirements. The Tiger Teams are composed of both Federal and contractor personnel. The Tiger

Team and all the subteams are led by DOE employees. Technical support is being provided to the Team Leaders by DOE and contractor experts. Given the Federal personnel ceilings and limited flexibility in Federal personnel systems, it is necessary to supplement the Tiger Team effort with contractor technical experts. However, contractors are not performing functions that are solely the responsibility of Federal employees, i.e., developing policies, writing regulations or specifications, or making programmatic decisions.

Attached is a list, as requested, of all contractors (including subcontractors) that have supported the Tiger Team effort. Many of these contractors have worked for a DOE Operations Office or an M&O contractor at a DOE facility. In each and every such instance, steps have been taken to assure that there is no conflict of interest. For example, the NUS Corporation is a major technical support contractor for the Savannah River Operations Office. They provide technical assistance to the Operations Office for environmental, safety, and health oversight programs. NUS will not provide technical assistance to the Tiger Team which assesses environment, safety, and health conditions at the Savannah River Site.

Allied Signal
Argonne Nat'l Lab.
Battelle
EG&G
Oak Ridge Nat'l Lab.
Arinc
SCF
LAS
NUS Corp.
SASC
Rockwell
Scientech
Encore, Inc.
ER Johnson, Inc.
ERM Southwest
Evergreen, Inc.
General Dynamics
HM Chew, Inc.
LHM Corp.
Lawrence Livermore Nat'l Lab.
Martin Marietta Corp.
META, Inc.
Occusafe, Inc.
Pacific Northwest Lab.
Tetra Tech.
Univ. of New Mexico
Usrtechs, Inc.
Chemrad Corp.
DBS Associates
Comes Corp.
WBD Cons. Corp.
UES Corp.
TRU
Labat-Anderson, Inc.
Science Applications International Corp.
Advancd Sciences, Inc.
ICF Northwest, Inc.
Brookhaven National Lab.
Oak Ridge Associated Universities
Mittelhauser Corp.
Los Alamos Technical Associates
Civil & Environmental Consultants, Inc.
COMEX Corp.
TOMA Enterprises
Chemrad Corp.
Sandia National Lab., Livermore
Menehune Marine Services
REECO
HRH Aero Consulting, Inc.
Mason and Hangar
Idaho National Engineering Lab.
Systematic Management Services, Inc.
Princeton University
RPX, Inc.
Westinghouse Hanford Co.
SWEC

FOR RELEASE UPON DELIVERY
Expected at 10:00 A.M., E.S.T.
February 6, 1990

STATEMENT OF JOHN NIEHUSS
SENIOR DEPUTY ASSISTANT SECRETARY
FOR INTERNATIONAL ECONOMIC POLICY
DEPARTMENT OF THE TREASURY
BEFORE THE COMMITTEE
ON GOVERNMENT AFFAIRS
UNITED STATES SENATE
FEBRUARY 6, 1990

Mr. Chairman. It is a pleasure to participate in these hearings on S 2006, a bill to elevate the Environmental Protection Agency to cabinet-level status. My testimony will focus on the two items identified in the Committee's invitation letter to Secretary Brady, i.e. the potential impact on the Department of the Treasury and our views on Section 402 dealing with instructions to U.S. Executive Directors to the Multilateral Development Banks.

Let me begin by fully endorsing the objective of this legislation, i.e. to establish the Department of the Environment and to provide for a global environmental policy of the United States. President Bush has made the Administration's position on these issues very clear. Environmental issues will be dealt with at the highest levels of government. The United States will exercise international leadership on a broad range of environmental issues, including those that relate to Treasury's management of U.S. participation in the Multilateral Development Banks.

In Building A Better America, released at the start of his administration in February, 1989, the President directed Treasury "to promote environmental considerations as a factor in the lending decisions of the Multilateral Development Banks." At the Economic Summit Meeting in Paris in July, 1989, he asked other Heads of State to join with him in "encouraging the World Bank and the regional development banks to integrate environmental considerations into their activities." At the annual meetings of the World Bank and the International Monetary Fund in September, 1989, the President called on the Bank and its member countries "to develop constructive solutions to global warming, including measures to promote energy efficiency and conservation and greater protection of forest resources."

Treasury Department's Environmental Activities

As background for considering the bill's impact on the Treasury Department, it would be useful to summarize our current activities in the environmental area. They relate primarily to environmental issues within the Multilateral Development Banks; and we understand that it would not be the intent of the bill to change our responsibilities in this or other areas where we have a primary role.

Secretary Brady has raised environmental issues at numerous high level international meetings: the ministerial meeting of the Organization for Economic Cooperation and Development last May; meetings of the Development Committee of the World Bank last April and September, and at the Annual Meetings of the World Bank and International Monetary Fund last September. We anticipate that he will continue to do so at similar meetings in the future.

Other Treasury officials emphasized the importance of environmental issues at the annual meetings last Spring of the three regional development banks -- the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank. Environmental issues have been at the heart of U.S. negotiations to replenish the resources of these institutions, particularly the Inter-American Development Bank and the International Development Association, the concessional lending affiliate of the World Bank. Environmental protection and sustainable development are being addressed in negotiations to establish a European Development Bank, now going forward in Europe.

We have had substantial successes as a result of these efforts. In September, 1989, the World Bank adopted procedures to assure that environmental impact assessments are completed for projects that will have a significant effect on the environment. In January, the Inter-American Development Bank established an environmental division and it has assigned at least fifteen environmental professionals to carry out the functions of that unit.

Our progress has been particularly noteworthy in the International Development Association. An agreement to replenish the resources of the Association was finalized at a meeting in Washington in December and approved by the Board of Executive Directors in a meeting that was held just last week. That agreement expressly provides for the following:

(1) implementation of environmental impact assessment procedures;

(2) increase in public access to environmental information;

(3) greater emphasis on energy efficiency and conservation, including end-use efficiencies, renewable energy technologies, and least-cost planning in borrowing countries;

(4) more support for debt-for-nature swaps;

(5) more rapid progress on environmental action plans; and

(6) closer collaboration and cooperation with non-governmental organizations in borrowing countries

In carrying out our responsibilities, we work very closely with colleagues from other government agencies in efforts to improve environmental performance in the Multilateral Development Banks. AID and Treasury collaborate in preparing a semi-annual report identifying specific projects that may have adverse effects on the environment. Experts from AID, EPA, CEQ, State and other agencies meet informally, as part of this early-warning system, to discuss up-coming loans that may be problematic. An important example is our work on several tropical forest projects. Working with experts from agriculture and the National Park Service, we have sought to place greater emphasis on preservation and sustainable harvesting measures as part of tropical forestry action plan programs.

Energy efficiency and conservation measures are another important area in which we have worked with other agencies, including the Department of Energy and the Agency for International Development. Treasury has formed an informal working group comprised of experts from AID, Energy, State, EPA, and several NGOs to exchange views on how we might encourage greater emphasis on energy efficiency and conservation in the Multilateral Development Banks. Treasury is also member of the Committee on Renewable Energy, Commerce and Trade which seeks to encourage greater reliance on renewable energy technologies in developing countries.

This week Treasury representatives are participating in a meeting of the Inter-Governmental Panel on Climate Change, as we did last year. In October we worked with the Working Group on Response Strategies and helped draft a paper on financing that is to be considered by the Inter-Governmental Panel later this year.

Specific Comments

The activities that I have briefly outlined here today indicate that a great deal of coordination is already taking place on environmental matters within the executive branch.

This is being done informally and through formal mechanisms such as the Working Group on Multilateral Affairs which analyzes Multilateral Development Bank loans. As I understand the legislation that is being proposed, it is designed to strengthen those processes, not to replace them, and to enhance environmental efforts already underway.

The Secretary of the Treasury is the U.S. Governor of the Multilateral Development Banks and the International Monetary Fund. The Department is the official channel for communications between the U.S. Government and those institutions. My reading of this proposal is that it would not affect Treasury's traditional responsibilities in this or other related areas such as those connected with the economic summits or the inter-agency mechanisms that have been established to deal with issues in those areas.

I should point out that Treasury has already received an extensive and detailed mandate from Congress on the environmental aspects of our participation in the Multilateral Development Banks. Section 402 in Title III of this bill would represent the 35th such provision. If the bill is passed and an Inter-Agency Committee on Environmental change established, I would strongly recommend that some way be found to add the Secretary of the Treasury to the Committee. For example, the Committee Report could indicate that the Secretary should be named by the President as an additional member. This designation is needed in light of specific legislation that has already been passed in this area and the Secretary's overall responsibilities for the Multilateral Development Banks, the International Monetary Fund, the Development Committee, and other international economic and financial activities.

I would also clarify the role of U.S. Executive Directors in the Multilateral Development Banks. It is the banks, themselves, that issue loans and other financial or technical assistance and not the U.S. Executive Directors.

In conclusion, I can say that we welcome the introduction of the bill and fully support its objectives. It is particularly important that we continue to make progress toward our environmental objectives in the Multilateral Development Banks -- adoption and implementation of environmental impact assessment procedures, greater reliance on energy efficiency and conservation measures and increased protection for the World's tropical forests.

NAPA
National Academy of Public Administration
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STATEMENT OF

RAY KLINE, PRESIDENT
NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ON S. 2006

A BILL TO ELEVATE THE ENVIRONMENTAL PROTECTION AGENCY
TO CABINET STATUS

FEBRUARY 6, 1990

1120 G Street, N.W., Suite 540 Washington, D.C. 20005-3801 (202) 347-3190

Mr. Chairman and Members of the Committee:

I am pleased to have this opportunity to offer our views on S. 2006, the bill to elevate the Environmental Protection Agency (EPA) to Cabinet status. The National Academy's charter, enacted by Congress in 1984, establishes as one of our purposes to evaluate "the structure, administration, operation, and program performance of Federal and other governments and government agencies, anticipating, identifying, and analyzing significant problems and suggesting timely corrective action." The legislation you are considering today provides us an important opportunity to fulfill that purpose.

Two years ago, this Committee contracted with the Academy to evaluate proposals to establish a Department of Veterans Affairs. An Academy panel considered a series of questions which led to the development of 14 guideline criteria to evaluate whether the Veterans Administration should be elevated to a Cabinet department. In its March 1988 report, the panel provided its comments on each of these criteria as they applied to the VA. The report also provided nine public management guidelines for the structure of Cabinet departments, followed by panel comments. Mr. Chairman, I have a copy of this report which can be made available for the record.

Your letter of January 26, 1990 asked us to comment on two broad environmental issues and to offer our thoughts about the bureaucratic and managerial effects of elevating the EPA to Cabinet status, especially with regard to the NAPA criteria developed for the VA. Attached to my statement is a list of these criteria which have been modified slightly to fit EPA and its programs.

In preparing this testimony, we consulted with the chair of our VA panel, C. William Fischer, and two panel members located in Washington, Charles F. Bingman and Howard Messner. We also consulted with other NAPA Fellows with experience in creating other Cabinet departments, such as Alan Dean, and those with experience in administering environmental programs, including two former EPA administrators, William Ruckelshaus and Lee Thomas, and former deputy administrator Alvin Alm. While we did not perform any research on EPA in the short time available before this hearing, the Academy has conducted several studies of environmental programs in recent years, including:

- Building the Institutional Capacity for Managing High Level Radioactive Waste (1982)

- EPA Management Enhancement Project (1984)
- A Strategy for Implementing Federal Regulation of Underground Storage Tanks (1986)
- Congressional Oversight of Regulatory Agencies: The Need to Strike a Balance and Focus on Performance (1988)

ELEVATING EPA TO CABINET STATUS

On balance, we support the basic idea of establishing a Department of the Environment. We believe there is a unique opportunity at this time to consider comprehensively the future directions the Nation should take in resolving environmental problems. The EPA will observe its 20th anniversary in December 1990. However, after 19 years of government activity at all levels, the institutional and program management approaches to environmental issues remain fragmented. There is no dearth of public policy reviews and proposals dealing with environmental issues that are media-specific: air, water and land. But there is not enough effective integration of public and private institutions and approaches to pursue cross-cutting solutions to environmental problems. Global environmental problems now are driving the need for a fresh look at the U.S. government's capacity to grapple successfully with these problems. Closer to home, most of the legislative thinking and imaginative design have gone into public policy formulation with relatively little conceptual thought to implementing such policies.

Basic national policy on the environment was set forth 20 years ago in the National Environmental Policy Act of 1970. This landmark environmental legislation was the product of a grass-roots movement among the American people which began with the popularization of environmental issues in Rachel Carson's Silent Spring and culminated in its populist evocation on Earth Day 1969. Some states had led the federal government in creating environmental agencies or specifically restricting pollution practices. However, it was a piecemeal approach and a national response was demanded.

At the national level, the federal response posed the classic public administration dilemma of finding an effective way to impose policy control over numerous departments and agencies engaged in environmental activity. The initial response was to create the Council on Environmental Quality (CEQ), followed by creation by reorganization plan of

EPA in July 1970. The division of labor between the two organizations was viewed in traditional public administration terms--CEQ would focus on establishing broad environmental policies, and EPA would focus on setting and enforcing pollution control standards--a distinction which was blurred almost from the outset.

From its beginning, EPA had to decide what would be a proper integration of a variety of research, monitoring, standard-setting, enforcement, public works, and grant activities. Needless to say, the desire of early EPA leadership to respond quickly to public interest led to a major emphasis on enforcement. The consequences for the agency's other programs and its capacity to plan and implement strategically to achieve broad national goals are evident almost 20 years later.

Creating this new department provides an opportunity for establishing strategic national approaches and achieving measurable results. It is essential, however, that Congress and the president go beyond mere restructuring. Dealing effectively with other governments and international bodies, strengthening environmental research and development, and finding effective multi-media approaches for preserving and protecting the environment all require innovative and energetic initiatives. Any realignment of institutional roles, whether initiated by Congress, the White House, or the commission provided in title V of S. 2006, would benefit from a thorough review of the basic strategies for meeting both domestic and international environmental objectives. Under its congressional charter, the Academy would be pleased to lend its services for such a review.

APPLYING THE CRITERIA TO EPA

Our first five criteria apply to establishing a national priority for the agency's programs. There is no question that EPA and its programs serve "a broad national goal or purpose not exclusively identified with a single class, occupation, discipline, region or sector of society." Unlike the VA, which serves a single (albeit very large) military service-related group, the EPA's and other Cabinet agencies' environmental programs affect all segments of society, and the potential is for even greater effect in the future.

As to whether there are significant national needs not now being adequately addressed which might be better met by a Cabinet department, there is growing recognition that more needs to be done locally, nationally and internationally to preserve and protect the environment. The president has requested a 12-percent increase in EPA's operating budget for fiscal year 1991. His budget also acknowledges that today's environmental problems are different than those of 20 years ago. It says:

> America's continuing growth, and the imperative of economic expansion, require an even greater level of sophistication in protecting the environment. . . . The design of control strategies has improved; but even more creative solutions are needed to address the environmental challenges of the 1990s and of the next century.

Creating a Department of the Environment offers the opportunity to improve environmental program coordination, strengthen the talent base, and increase program visibility. However, it should be noted that EPA has fared far better than several departments during the 1980s in obtaining funds for its programs and its administrator currently enjoys excellent access to the president and senior White House officials.

Improving Program Effectiveness and Efficiency

Six NAPA criteria address the opportunities for improving program effectiveness and efficiency. Our VA panel found that the key determinants of program effectiveness did not depend on the act authorizing departmental status. In the broadest sense, the same could be said for EPA's programs. Program effectiveness depends on many other factors -- resources available, the laws and regulations authorizing the programs, the cooperation of state and local governments and the private sector, and the quality and motivation of the leadership and staff. To the extent that establishing a department would have a positive effect on these other factors, EPA's programs would benefit.

Specific provisions in S. 2006 may also contribute to improving program effectiveness. These include a statutory designation and delineation of responsibilities for a chief financial officer. Program effectiveness also stands to be improved by the enhanced information and its improved availability resulting from the new Bureau of Environmental Statistics. I will have more to say a little later about some of these provisions.

To maximize program effectiveness, we think the Congress should move to streamline environmental laws and to consolidate programs and functions which are now scattered throughout other departments agencies in the executive branch. S. 2006 transfers no programs in or out of the new department. Therefore, we support the commission to be established under Title V of the bill, and we urge that its final report be available one year after enactment instead of two years.

As to whether there are significant structural, management or operational weaknesses in EPA which could be more easily corrected by elevation to a Cabinet department, section 204 authorizes the appointment of up to 10 assistant secretaries and gives the secretary flexibility in determining the responsibilities each will have. This could be very useful in effecting any needed organizational changes within the new department.

On the question of external barriers and impediments to timely decision making and executive action, our panel on congressional oversight found that existing environmental statutes sometimes contain levels of detail that read more like regulations than statutes. These laws rely heavily on deadlines for agency actions, and many include "hammers"--statutory provisions that go into effect after certain deadlines unless the agency issues a regulation. However, S. 2006 does not make any changes in these requirements. Again, the commission established by Title V would have this job. It is possible that Cabinet status would give EPA additional leverage in dealing with the Office of Management and Budget on proposed regulations, but we believe the impact would be marginal.

The new presidential appointments established by S. 2006 might help in attracting skilled leadership. Our VA panel report said: ". . . a Cabinet secretary position is customarily more attractive to senior executive talent with a broader base of experience. Since more prestige is attached to presidential appointments, this may also be true for the . . . sub-cabinet line officers who have the day-to-day operational management responsibilities."

Improving Federal Policy Integration

A key question is whether establishing this new department would facilitate more uniform achievement of broad national policy goals. Because no changes would be made in the statutory responsibilities of other departments and agencies, it is hard to see how the elevation in and of itself would meet this criterion.

We are also concerned that establishing an interagency committee on global environmental change in the Executive Office of the President (EOP) may further fragment the policy-making apparatus. The EOP already has a CEQ, an Office of Science and Technology Policy, two Cabinet councils, and an OMB which play important roles here. The addition of yet another statutory coordinating committee could further confuse the issue. A major Academy panel report prepared for the last presidential transition expressed concern about the growth of some special-purpose offices in the EOP, such as the Council on Environmental Quality, which the panel said, "contribute little to fulfilling the president's broad responsibilities for national policy making and implementation."

At a minimum, the Secretary of the Environment should be designated as chair of this committee, and section 203(b) should make it clear that Congress expects the secretary to exercise leadership in coordinating environmental programs across government. We would expect the commission to be established under title V to take a careful look at the environmental policy-making apparatus across government, including the CEQ.

On the question of whether the elevation of EPA would weaken or strengthen the Cabinet and the EOP as policy and management aids to the president, we believe the addition of a 15th department would have little impact on how the Cabinet actually functions as a policy-making body. The total number of departments is so large now that it must function largely through a council and interagency committee structure. Making the secretary of the environment a peer to other secretaries might actually facilitate resolution of cross-cutting environmental issues by eliminating any roadblocks created by the matter of status.

The Academy's VA panel was concerned that Cabinet status for VA could set a precedent for other organizations to do the same. Indeed, we may be considering EPA today in part because of VA's success. The VA panel pointed out that: "While it is difficult to know where to draw the line, it is clear that the president could not manage a government which is so 'horizontally' structured that every important interest reported directly to him." The policy imperatives in the EPA case appear to outweigh this concern, but we urge the Committee to be mindful of it if and when proposals for additional departments are presented in future years.

Improving Accountability to Elected Public Officials

As was the case with the VA, the impact upon accountability to the president, oversight within the executive branch, and oversight by Congress would be negligible.

Numerous congressional committees are involved now in legislation and oversight of EPA programs. Our congressional oversight report showed that a great number of congressional committees have at least some jurisdiction over environmental regulation. A list published by EPA in 1987 showed that 34 Senate and 56 House committees and subcommittees exercised jurisdiction over the agency.

Elevation of EPA to Cabinet status might give the new secretary a little more clout in dealing with Congress on legislation, but the effect of the title change by itself would be modest. If Congress would use the occasion of establishing this department to re-examine its own dispersal of jurisdiction over environmental programs, the impact could be more significant.

GUIDELINES FOR STRUCTURING THE DEPARTMENT

I want to comment briefly on several sections of S. 2006 relating to how the new department and its officials would function, keeping in mind our VA panel's guidelines on structuring a department.

Executive Secretary

Section 203(d) authorizes establishment of an executive secretary in the Office of the Secretary but does not define the functions. Our guidelines call for clear and direct lines of authority between the secretary and senior line officers. It should be made clear that the executive secretary, if established, would not perform line functions or otherwise intervene on substantive issues requiring decisions of action by the secretary or deputy secretary.

Assistant Secretary for Administration and Chief Financial Officer

Section 204(e) of the bill provides for the secretary to designate the assistant secretary whose responsibilities include financial management as the department's chief financial officer (CFO). This is similar to the approach taken in establishing the Department of Veterans Affairs. We assume these responsibilities would go to an assistant secretary for administration similar to the current assistant EPA administrator for administration and resources management. In our 1984 report for EPA, Steps Toward a Stable Future, our panel, which included people like Frank Carlucci, Robert Fri and John Gardner, recommended that this position be designated as SES career-reserved. The addition of CFO responsibilities buttresses the argument for similarly making the assistant secretary for administration a career-reserved position.

As an alternative, the Committee may want to consider establishing a separate career-reserved position for CFO. Last fall, Congress established a CFO by statute (Public Law 101-235) for the Department of Housing and Urban Development whose duties relate solely to financial management. At the request of HUD, the Academy recently completed work defining the functions, organizational location and the staffing for the CFO and comptrollers in the department's operating units. Our study team recommended that the CFO be a career-reserved position reporting directly to the HUD secretary. The team concluded that financial management requires continuity and a high level of professionalism in its leadership which could best be achieved through a career-reserved position in the Senior Executive Service and by requiring that the incumbent be a certified public accountant. Secretary Kemp accepted these and other recommendations made by the study team in January.

Assistant Secretary for Research and Development

Our 1984 report also recommended that the EPA assistant administrator for research and development either be designated as a SES career-reserved position or be nominated by the president and confirmed by the Senate for a fixed term of not less than five years. The panel's report said: "Such action will help the agency institutionalize and stabilize the kinds of research management needed to improve program implementation."

Section 204(a) of S. 2006 lists "research and development" as one of the responsibilities to be assigned an assistant secretary. As was the case for EPA, we believe this position should have a fixed or term or be a career appointment. Provisions in the Department of Veterans Affairs Act for chief medical director and chief benefits director might serve as useful precedents.

Reconfirmation of EPA Appointees

S. 2006 authorizes EPA officials to exercise assistant secretary responsibilities only until such responsibilities are assigned to an individual appointed to an assistant secretary position. We interpret this to mean that all EPA officials now on board would have to be reappointed and confirmed by the Senate if they assumed assistant secretary positions. Given the short time the current leadership team has been in place at EPA, we suggest that current officials appointed to assume similar duties in the new department not be reappointed.

Deputy Assistant Secretaries

Section 205 of S. 2006 authorizes the establishment of deputy assistant secretary positions, at least one-half of which are to be career-reserved. We are concerned about the impact of these additional political positions on the continuity and technical expertise needed for effective program leadership. Our 1984 report pointed out that there were already a comparatively large number of political appointees in EPA. We urge that positions at the deputy assistant secretary level remain career-reserved.

The law establishing the Department of Veterans Affairs required that at least two-thirds of these positions be filled from the competitive service. Similarly, H.R 3487, the counterpart House bill to S. 2006 requires that at least two-thirds of these positions be filled in this manner. In addition, H.R. 3487 limits the total number of deputy assistant positions to twenty.

Miscellaneous Employment Restrictions

Section 209(a) of S. 2006 sets a limit of 12 percent on the number of non-career Senior Executive Service positions. H.R. 3487 sets this limit at 10 percent, the same as the current government-wide limit. A 5-percent limit was set for the Department of Veterans Affairs. For the same reasons as we support career-reserved slots for the positions discussed above, we believe the limit should be no more than 10 percent.

CONCLUSION

We believe there is merit in establishing a Department of the Environment, based principally on the growing environmental challenges facing the nation and the world; the need to provide strategic, coordinated approaches to meet these challenges; and the opportunity this legislation provides to strengthen the responsible institutions of government in this field. We urge the Committee to take full advantage of this opportunity, and we are prepared to assist in any way we can.

Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions you may have.

ATTACHMENT

GUIDELINE CRITERIA FOR AGENCY ELEVATION TO CABINET DEPARTMENT STATUS FOR THE ENVIRONMENTAL PROTECTION AGENCY

GUIDELINE CRITERIA FOR WHETHER EPA SHOULD BE ELEVATED

Establishing a National Priority for the Agency's Programs

1. Does the agency or set of programs serve a broad national goal or purpose not exclusively identified with a single class, occupation, discipline, region or sector of society?

2. Is there evidence that there is a significant national need that is not now adequately recognized or addressed by the Environmental Protection Agency, the president, or the Congress which would be better assessed or met by elevating the agency to a Cabinet department?

3. Is there evidence of impending changes in the needs of, or the circumstances surrounding, the persons and organizations served which would be better addressed if the EPA were made a Cabinet department?

4. Would a Cabinet department increase the "visibility" and thereby substantially support the active political and public support for programs administered by the EPA?

5. Is there evidence that becoming a Cabinet department would provide better analysis, expression and advocacy of the needs and programs which constitute the agency's responsibilities?

Improving Program Effectiveness

6. Is there evidence that elevation to a Cabinet department would improve the effectiveness of environmental law implementation and service delivery?

7. Is a Cabinet department required to better coordinate or consolidate programs and functions which are now scattered throughout other agencies in the executive branch of government?

8. Is there evidence that a Cabinet department with its increase in the centralized political authority of the secretary's office would result in a more effective balance, within the agency, between integrated central strategic planning and resources allocation, and the direct participation in management decisions by the line officers who are responsible for directing and managing environmental law implementation and service delivery? Would the staff officer-line officer interaction be improved?

9. Is there evidence that there are significant structural, management or operational weaknesses within the EPA that could be more easily corrected by elevation to a Cabinet department?

10. Is there evidence that there are external barriers and impediments to timely decision making and executive action that could be detrimental to improving the efficiency of EPA programs? Would these impediments be removed or mitigated by elevation to a Cabinet department?

11. Would elevation to a Cabinet department help recruit and retain better qualified leadership within the agency?

Improving Federal Policy Integration

12. Is there evidence that a Cabinet department would facilitate more uniform achievement of broad, cross-cutting national policy goals such as providing groundwater and surface water protection and pesticides management, hazardous waste management and wetlands protection, and leadership on international environmental problems?

13. Would elevation to a cabinet department for the EPA weaken or strengthen the Cabinet and the Executive Office of the President as policy and management aids to the president?

Improving Accountability to Elected Public Officials

14. Would the elevation to a Cabinet department have a beneficial or detrimental effect upon the oversight and accountability of the agency to the president and the Congress?

GUIDELINES FOR STRUCTURING A DEPARTMENT

1. The secretary should have full authority to direct and administer the programs and policies of the department and thus justify being held accountable.

2. The secretary should have adequate flexibility to organize and allocate resources, including the field structure of the department, to meet changing program requirements.

3. There should be clear and direct lines of authority and responsibility between the senior line officers who have program implementation, service delivery and operating functions and the secretary.

4. There should be an appropriate balance between access by, and use of, staff officials charged with advising the secretary on cross-cutting issues of departmental administration, strategic planning and resource allocation, and direct participation in those processes by the senior line officials charged with service delivery and operations.

5. The structure should allow for a clear identification of the responsibilities of the top executive team, both within the department and externally with the Congress, other agencies, affected private parties and the general public.

6. The structure should facilitate the secretary having full and current information on and critical evaluation of: strategic policy and planning; resource allocation trade-offs; program effectiveness; the quality of service delivery; and external relationships including congressional and public affairs.

7. The secretary should have the greatest possible latitude in assuring that all of the department's functions are being carried out with professional quality and integrity. These functions include all those relating to the department's programs as well as internal supporting functions such as: financial management, personnel management, procurement and supply, construction, auditing, inspection, and management information systems.

8. In the context of the mission needs of the department, the structure should provide for the appropriate balance between political leadership and the career staff to assure competence and continuity in operational management of the delivery of services.

9. The existing structure of an executive department or agency should not be changed without clear evidence that it is not working.

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Testimony of Sharon Newsome
Vice President, Resources Conservation
National Wildlife Federation
before the

Senate Committee on Governmental Affairs

on S. 2006
The Department of the Environment Act of 1990

February 7, 1990

Printed on Recycled Paper

Mr. Chairman, my name is Sharon Newsome, I am Vice President for Resources Conservation. I appear before you today on behalf of the over 5.8 million members and supporters of the National Wildlife Federation to enthusiastically endorse the Department of the Environment Act of 1990, S. 2006, which would elevate the Environmental Protection Agency to cabinet status.

The National Wildlife Federation commends you Mr. Chairman, Ranking Minority Member Senator Roth, and Members of the Committee for putting this issue on the top of your agenda. This bill's bipartisan recognition of the national and international importance of environmental problems bodes well for our nation's future.

There are six reasons why EPA should be elevated to Cabinet Status:

> Dealing with Tougher Environmental Problems. First, environmental problems are increasing in both their scope and severity, and have now taken on truly global proportions. A Cabinet department will help us to deal with these tougher problems.
>
> Increasing Presidential Involvement. Second, cabinet status would increase the involvement of the President in environmental issues. Especially as the environment takes on the dimension of a national security issue, it is essential that our foremost environmental representative be involved at the highest level in the formation of national policies.
>
> Improving Interaction With Other Agencies. Third, a Secretary of a Department of Environmental Protection would have the rank to negotiate better compliance by and improve relations with other Cabinet Departments.
>
> Taking an International Leadership Role. Fourth, creation of a Cabinet Department would send a strong signal to the international community that we are serious in our commitment to the environment and will continue to take a leadership role in global environmental policy.
>
> Handling EPA's Growing Work Load. Fifth, given EPA's growing workload and diminishing resources, it is timely and appropriate to accord the Agency the power

and respect it requires to protect our health and our environment.

Meeting Objective Criteria for Elevation to Cabinet Status. Sixth, and finally, EPA meets the objective criteria recently established by the National Academy of Public Administration for elevation to cabinet status.

These points and other are discussed in detail in a report the National Wildlife Federation released in June 1989-- Environment: A Place at the Table, the Case for Creating a Department of Environmental Protection. I have brought copies of this report for Members of this Committee and ask that it be made a part of the record of these hearings.

I will now briefly elaborate on the six reasons EPA should be elevated to Cabinet status.

Dealing with Tougher Environmental Problems

Environmental problems affect the life of every American. Local, national, and global in scope, their increasing severity is disquieting. Consider the following examples:

Global warming: Many scientists believe that the Earth will heat to unprecedented temperatures as gases such as carbon dioxide, nitrous oxide, chlorofluorocarbons and methane continue to be spewed into the atmosphere. Coastal flooding, drought, crop failures, declining fisheries and forests, vanishing wildlife, and severe tornadoes and hurricanes are only a few of the projected effects of global warming.

Stratospheric ozone depletion: A record 50% thinning of the ozone layer over Antarctica was found by an expedition of scientists in 1987. The destruction of our protective ozone layer increases our exposure to ultraviolet radiation. If left unchecked, scientists expect rising rates of skin cancer, eye disorders, and lowered immune response in humans. Agriculture, wildlife and commercial fisheries are also at risk.

Ozone and Carbon monoxide pollution: Over 150 million Americans live in the 100 areas which failed to meet air quality standards for either ozone or carbon monoxide in 1988. Physicians are concerned that repeated exposure to even low levels of ozone may produce changes in the lung function of healthy adults, in addition to children, the elderly and asthmatics who are particularly vulnerable.

Hazardous chemical pollution: **At least 2.7 billion pounds** of hazardous chemicals were dumped into our air in 1987, according to EPA's Toxic Release Inventory data. In its 1987 publication, Unfinished Business, EPA's Cancer Risk Work Group reported that toxic air pollution contributes to at least 2,000 cancers each year. In addition, an EPA review of 11,000 chemical accidents in the U.S. between 1980 and 1988 reported that these incidents resulted in 309 deaths, more than 11,300 injuries and nearly 500,000 evacuations. In total, **22.5 billion pounds** of some 300 toxic release inventory chemicals were released into our water, air and soil in 1987 alone.

Contaminated drinking water: The drinking of contaminated groundwater caused over 50,000 cases of illness in the U.S. between 1971 to 1988, according to public health documents. EPA believes the real number of sufferers to be as high as 25 times this figure, or 2.5 million people.

Acid rain: Acid rain and its precursors cost billions of dollars in health care, crop losses, and damage to buildings. We also pay with damage to our forests, leaching of our soils, destruction of life in thousands of lakes and streams, poor visibility, contamination of drinking water by heavy metals, and the premature deaths of thousands of people each year from exposure to airborne sulfates and particulates.

The escalating degradation of the environment affects both our quality of life and our nation's economy. Solving our environmental problems must be given the highest priority.

Increasing Presidential Involvement

Historically, the Administrator of EPA has not had regular, direct and easy access to the President, nor has the Administrator been consistently involved in the development of the broad policies which determine the direction of our Nation, both domestically and internationally.

A Cabinet level Department of Environmental Protection would assure the President routine counsel on pressing environmental problems. It would help guarantee that important environmental issues are presented unfiltered, and decided on their merits. The environment is of fundamental importance to all Americans, and indeed all citizens of all nations. Thus it is vital that the President have sound briefing on these issues directly from leaders who are qualified to address them, rather than through the filter of management or budget or other concerns.

Presidential involvement in environmental issues would have other important benefits as well. Close counsel of the President on environmental issues could result in strong support for environmental measures in Congress, helping to break the all too frequent legislative logjams. Presidential involvement would help guarantee that legislation which is adopted is implemented as it was intended. And greater Presidential involvement could ensure that adequate resources are allocated for the commitments made to the citizens of the United States by their representatives in Congress.

Overlooking environmental concerns during the crafting of policy can lead to dangerous and expensive mistakes. How much money would have been saved and damage prevented at the nuclear weapons facility in Hanford, Washington, if the environment had been better represented during the defense policy decisionmaking process? With mounting concern over the use of pesticides and the environmental impacts of agricultural practices, is it sound to exclude environmental officers from discussions of agricultural policy? In an era of escalating concern over global warming, is it wise not to involve environmental specialists in energy policy discussions? We cannot afford the myopic exclusion of environmental views from our national domestic and foreign policy forum -- the Presidential Cabinet Table.

Improving Interactions with Other Agencies

When he established EPA, President Nixon emphasized the importance of the new centralized agency's independence. This independence was intended to free the agency to regulate and enforce adequately. At present the Agency carries a Departmental load, yet without the status that would allow it to perform its task effectively.

EPA is charged with setting environmental criteria for other federal agencies. As Senator Durenberger noted when he introduced this bill last year, "some of our worst polluters - unfortunately - are federal agencies." The Departments of Defense and Energy are mired in hazardous waste clean-ups. "EPA needs to be on an equal footing with those departments as the cleanup efforts at federal facilities are designed and carried out."[1]

More than two dozen federal installations in the District of Columbia, Maryland and Virginia alone have violated federal and state environmental laws in the past two years, according to EPA and State regulators.[2] Because of its lesser status EPA must often cajole rather than direct action by other agencies. As a cabinet member, the Secretary of Environmental Protection would have peer rank to facilitate compliance and cooperation with the law.

Taking an International Leadership Role

Environmental issues also have extensive international implications. Jessica Tuckman Mathews, a former member of the National Security Council, and presently Vice President of the World Resources Institute, has stated that we must redefine our concept of "national security" to include environmental and resource issues.[3]

Her logic, and that of a great many prominent statespeople, is simple and straightforward: the threats to our security and the quality of our lives stem increasingly from environmental concerns. These threats may come either via the direct influence of pollution on our health and welfare, or more indirectly through the escalating competition over dwindling natural resources like clean water and arable land.

Environmental threats have expanded beyond national borders. The international problems we are facing include: the depletion of the stratospheric ozone layer, global warming trends, acidic precipitation, pollution of the seas, and trafficking in hazardous waste.

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[1] Senator Dave Durenberger, Congressional Record, June 28, 1988, S 8703.

[2] D'Vera Cohen. "Some Federal Facilities Flout Environmental Laws: EPA, Area Jurisdictions' Enforcement Power Limited, "New York Times, May 22, 1989.

[3] Jessica Tuckman Mathews. "Redefining Security," Foreign Affairs, spring 1989, pp. 162-177.

Stretching from the Atlantic to the Pacific, with a climate ranging from arctic to subtropical, and with the economy dependent on both our industry and natural resources, the United States is seriously affected by most world environmental changes.

We are politically, economically and technologically suited to take the lead in international forums. From a purely selfish perspective, it is in the nation's interest to play an active, aggressive role in decisions which will vitally affect every aspect of American life, ranging from the environment to the economy and including national security.

If the U.S. is to take a leadership position in the international arena, our environmental representative must have status equal to that of his or her foreign counterparts. Creation of a Department of the Environment will stand as a symbol of our renewed commitment to solve global and domestic environmental predicaments. With the support of an aware Congress and a concerned President, the Secretaries of Environment and State will be in an excellent position to improve our wilting international environmental record.

The Soviet Union, England and France, West Germany and Japan, as well as most other major industrialized nations, all have Cabinet level ministries of the Environment. In the light of the global nature of most environmental problems, the United States needs a Secretary of the Environment to negotiate with foreign counterparts.

Handling EPA's Growing Work Load

In 1970, when EPA was created, the Agency administered four statutes. Now, nearly 20 years later, the Agency's responsibilities encompass more than 13 major laws and numerous minor ones, from the Clean Air Act and the Clean Water Act to the Comprehensive Environmental Response, Compensation and Liability Act, known as Superfund. In an appendix to this testimony, I have included a list of the original four laws for which the EPA was responsible along with a partial list of their current statutory authorities in an attached table (see Appendix 2).

Environmental laws have grown almost exponentially in their length and complexity, and the burden of tasks falling to EPA has increased correspondingly. This trend is illustrated by the cumulative page length of environmental acts which has climbed from approximately 150 in 1970 to over 850 in 1988 (see Appendix 3). The water pollution program provides a concrete example of EPA's workload increase since 1975 (see Appendix 4). For example, the Agency now regulates 40,000 industrial and municipal toxic dischargers to sewers and must control millions of nonpoint sources that were not covered by law in 1972.

In addition to its regulatory functions, EPA maintains 10 field offices, operates research facilities, oversees state programs, sets environmental criteria for other federal agencies, and cooperatively administers a variety of programs with a number of Cabinet Departments.

EPA shares responsibility for remedial waste programs with the Department of Defense and the Department of Energy, for pesticide regulation with the Department of Agriculture, for groundwater and wildlife resource protection with the Department of Interior, for assessing the impact of highways and airports with the Department of Transportation, and for workplace safety with the Department of Labor.

With a staff of some 13,500, nearly 30,000 including state and local employees under the Agency's direction, EPA is larger than both the Department of Education and the Department of Housing and Urban Development. EPA's $5.1 billion annual budget is larger than those of the Department of Interior and the Department of Commerce. The Agency's scope and obligation are clearly on a par with Cabinet level Departments.

Meeting Objective Criteria for Elevation to Cabinet Status

In 1988, the National Academy of Public Administration established a set of 14 objective criteria as guidelines for evaluating whether an Agency should be elevated to Cabinet status. I have included brief discussions of the NAPA standards in an Appendix accompanying my testimony. The Environmental Protection Agency meets all of the relevant criteria.

Changes Suggested to S. 2006

The National Wildlife Federation strongly supports S. 2006 but would like to offer a few suggestions to strengthen the bill.

First, regarding enforcement, the Federation would like to see language added to S. 2006 to strengthen the Agency's enforcement capability. We urge you to consider including in S. 2006 provisions similar to those in H.R. 3847, a bill to create a Department of Environmental Protection introduced in the House by Representative John Conyers. The provisions establish an "Office of Enforcement" within the new Department headed by an "Assistant Secretary for Enforcement." The Office would serve as a central authority to monitor compliance with environmental statutes and to investigate and take action against violators. We strongly believe that enforcement must be a vital component of this legislation if the Department is to attain the goals put forward in S. 2006.

Secondly, it is our hope that the Committee would strengthen the bill by adding provisions ensuring public access to information. We strongly support the establishment of the proposed "Bureau of Environmental Statistics" called for in S.2006. However, language should be added to ensure that the "Bureau" not only collects and coordinates data on pollutants and their effects on human health and the environment, but also ensures that these data are accessible to the public in computerized and other formats. It is imperative that the bill recognize the public's fundamental "right-to-know" the hazardous substances stored in our communities and released into our air, water and land, and also the compliance of industries and government with environmental regulations. Only informed citizens are effective watchdogs over local environmental quality.

The National Wildlife Federation would also like to see the bill strengthened in the area of international environmental issues. NWF supports the provisions put forward in S. 2006 to increase EPA and government attention to global environmental issues. We agree that the problems of global environmental change such as the depletion of stratospheric ozone and acid rain must command the coordinated attention of the United States at both the domestic and the international level. Our concern is that the bill as drafted will not have sufficient impact on agency and government policy. In light of our concerns, we believe the bill's provisions addressing global change, such as the formation of the Interagency Committee on Global Environmental Change, warrant further investigation and discussion.

Our only major substantive concern with S. 2006 is the proposed "Commission on Improving Environmental Protection." We agree with the Chairman that a study of EPA management and jurisdiction could prove constructive. It is our fear however, that as presently drafted, the Commission would be given authority to analyze and propose changes to the various environmental laws that EPA administers. We also fear that in the name of "streamlining and rationalization," the Commission might reopen and seek to revisit the debates of the early 1980's that have long since been settled regarding the scope and vision of EPA's substantive laws. In our view, debates over changes in substantive environmental policy should take place in the Congress and not in a Commission. For that reason, we have offered proposed changes to the bill's language that we hope you will adopt. The redrafted sections 503 and 504 of S. 2006 are included in my testimony (see Appendix 5) and seek to define more clearly the mission of such a commission and the scope of its powers.

The National Wildlife Federation believes strongly that this bill would be improved by the addition of an Office of the Ombudsman to the new Department of the Environment.

We envision this ombudsman fulfilling three critical missions:

Aiding the public in communication and dealing with the federal pollution control bureaucracy.

Acting as a consultant, watchdog and conscience for the Department in it's dealings with the public.

Representing the special needs of populations disproportionately impacted by environmental degradation.

Aiding the public As pollution issues have grown more complex, this has been paralleled by a growing complexity in our responses. Even for those of us experienced with dealing with the federal bureaucracy, its many rules, protocols and acronyms, it can often be difficult to get even the simplest question answered or phone call returned.

The Ombudsman's office would have the mandate of working with the Department and with the public to better facilitate interaction and communication. An ombudsman would work as an advocate for the public to assure the speedy and efficient release of information, to advocate the public's right-to-know and aid the public in working its way through the bureaucratic morass. The legislation should make it clear, however, that the Ombudsman's mission is to assist pollution victims, not to healp already well-represented industries with EPA's implementation and enforcement of pollution control programs.

Acting as a watchdog In communities across the country, where there are problems with toxic waste dumps and other forms of pollution, EPA is sometimes viewed as the enemy of the public and the environment rather than its protector. The is a growing constitency of citizens that has grown increasingly frustrated with pollution, the lack of good information, and the laberenthine bureaucracy that has marred EPA programs such as Superfund. While many of the most egregious problems of the early days of that program are behind us, the new Department must deal with the perceptions and realities of communities that has lost faith in the ability of its government to protect them from pollution.

An Ombudsman would work to keep the agency sensitive to these issues and let the public know that it has a voice in the highest levels of the Department.

Representing special needs In a 1987 study, the United Church of Christ- Commission on Racial Justice did a statistical analysis of the racial and socio-economic characteristics of communities with hazardous waste sites. The studies findings confirmed what many have known for a long time. These sites are disproportionately present in communities that are predominately composed of Blacks, Hispanics and other minorities. The study showed how the poorest communities in our nation are often the places which end up with the largest toxics problems. The poor are those who are least able to afford health care, protect themselves or escape from these pollution problems.

One of the recommendations of the UCC-CRJ report was that a special Office of Hazardous Wastes and Racial and Ethnic Affairs be set-up within EPA. The National Wildlife Federation supports the creation of an Ombudsman's office with a clear mandate to assist the poor and others who are disproportionately impacted by pollution, and who also often are least able to afford to deal with EPA's dauntingly complex programs. An Ombudsman's office with a mandate of reviewing special needs would be a start towards this task.

Conclusion

In closing, we appreciate the Chairman's continued leadership in this important issue and look forward to actively supporting your bill as it moves through the legislative process. Once again, I applaud the work of the Chairman and the Committee for your leadership in introducing this important legislation to grant the present Environmental Protection Agency its deserved status as a Cabinet level Department. The time has truly come to give the new Department of Environment a "place at the table." It is our hope that Congress will work for the swift passage of S. 2006 so that a bill may be presented to the President for his signature by April 22, 1990, the 20th anniversary of Earth Day.

I will be happy to answer any questions.

Appendix 1:

A Brief Assessment of How Well EPA Meets The National Academy of Public Administration Guidelines for Cabinet Status

1. Does the agency or set of programs serve a broad national goal or purpose not exclusively identified with a single class, occupation, discipline, region or sector of society?

The degradation of the environment affects the lives of virtually all American, impacting the quality of our air, water, soil, natural resources. People in all sectors of society breathe the air in our cities, drink water that may be contaminated, and are exposed to hazards at home, in schools, and at work. Environmental concerns are not limited to the poor living downwind from an industrial complex or the wealthy who use our National Parks. EPA regulates air quality in office buildings, drinking water in suburban areas, and pesticides in the food we all eat.

2. Is there evidence that there is a significant need that is not now adequately recognized or addressed by the Agency in question, the President, or the Congress which would be better assessed or met by elevating the agency to a Cabinet—department?

As previously mentioned, the environment has not consistently been represented during the formulation of national policies. Elevation of EPA to Cabinet level would be a significant step in the improvement of this situation.

Compliance with environmental regulations by other federal agencies has been conspicuously low. Elevation to Cabinet rank would facilitate compliance and cooperation from other departments. It would also allow evaluation of the national security aspects of environmental issues.

3. Is there evidence of impending changes in needs or circumstances which would be better addressed if the Agency were made a Cabinet Department? Are such changes expected to continue in the future?

The severity of environmental problems is escalating. In the past year, Americans have been made much more aware of environmental threats. The nation has been assaulted by severe droughts, raging wildfires, garbage on its beaches, overflowing landfills, smog choking its cities, and the Alaskan oil spill.

Environmental problems are also increasingly of a global nature, from projected climate change to acid rain. The changes are evident, and the political strength available to a Cabinet Department will be necessary to help meet the environmental challenges of the next few decades.

4. Would a Cabinet department increase the "visibility" and thereby substantially strengthen the active political and public support for programs for which the Agency is responsible?

A recent review of environmental polls over the last two decades found that public support for stronger environmental regulation is increasing dramatically.[4] Louis Harris even posits that "in 1992 or in 1996, a president will be chosen and elected with a pro-environment stance as his primary identification."[5]

There is little question that public opinion responds to information and that information follows visibility. WIthin two months of the controversy over Alar, a pesticide applied to apples and other fruits, which laboratory tests indicated to be a carcinogen, EPA was able to overcome political resistance and ban further use of this hazardous chemical.

The citizens of the United States have a right to know about the hazards to which they are being exposed. It is a simple fact of political life that Cabinet officers attract more publicity than non-Cabinet officials. In the case of environmental matters, the public not only has an appetite for information, it is willing to act on the information.

5. Is there evidence that becoming a Cabinet Department would provide better analysis, expression and advocacy of the needs and programs which constitute the agency's responsibilities?

If a President supports a particular program area, as Ronald Reagan did with Defense, or Jimmy Carter with environmental programs, Cabinet status is not necessarily vital. But during periods of Presidential neutrality or hostility, Cabinet status can be an important factor in the success or failure of programs.

In the past eight years, EPA has had little support from the White House. While their work load was increasing dramatically, funding was barely keeping pace with inflation and staffing levels in 1988 were equivalent to those in 1977.

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[4] **Americans for the Environment**, Louis Harris, V. Lance Terrance and Celinda Lake. The Rising Tide: Public Opinion, Policy and Politics. April 20, 1989.

[5] Op. cit., p. 3-4.

Thus far, President Bush deserves credit for providing the Administrator with easy access to the President's office. But during formal White House sessions, the Administrator is relegated to the sidelines and excluded from the official give and take, the direct discussion of issues which may have substantial implications for the environment. Inevitably, this second rank manifests itself in dealings between the Administrator and the Secretaries and between the Agency and the Office of Management and Budget. As detailed above, elevation to Cabinet level will improve the current status of EPA.

6. Is there evidence that elevation to a Cabinet department would improve the effectiveness of service delivery to the beneficiaries served by the Agency?

As the Agency's primary responsibility does not involve delivery of services to beneficiaries, this question is not applicable.

7. Is a Cabinet department required to better coordinate or consolidate programs and functions that are now scattered throughout other agencies in the Executive Branch of government?

The bill under consideration does not include reorganization of the Agency's current structure. However, even without merging other agencies the creation of a Department of Environmental Protection would doubtless result in more genuine coordination and cooperation between existing departments and a new Department of Environmental Protection. Cabinet status would make environmental protection an equal partner at the negotiating table.

Both the Departments of Energy and Defense, for example, have resisted the mandates of the Superfund law since its enactment. And, in the context of not only controlling air pollution but confronting the threat of global warming, some of EPA's most tenacious adversaries have been the Departments of Energy and the Interior. A Department of Environmental Protection might or might not ultimately win these battles, but it would certainly have a better chance than it does now.

8. Is there evidence that a Cabinet department with its increase in the centralized political authority of the Secretary's office would result in a more effective balance, within the agency, between integrated central strategic planning and resource allocation, and the direct participation in management decisions

by the line officers who are responsible for directing and managing service delivery? Would the staff officer - line officer interaction be improved?

Despite its large scope, EPA is doing very little on some of the highest risk environmental problems. A recent study, "Comparative Risk: The Unfinished Business", infers that many of the greatest environmental risks are relatively untouched by current EPA programs, while lower risk activities receive much greater attention and money. The study mentioned global worming, estuarine ecosystems, indoor air pollution and radon.

The Science Advisory Board has identified gaps within EPA between identifying risks, understanding environmental change, and implementing appropriate programs. The general categories noted by the Board included the mechanisms and impacts of the long range transport of pollutants in the air and the groundwater, population health risk assessments, understanding and monitoring of ecological changes, and techniques and technology for waste minimization.

The creation of a Department of Environmental Protection will provide the impetus for more integrated strategic planning and resource allocation.

9. Is there evidence of significant structural, management or operational weaknesses within the agency that could be more easily corrected by elevation to a Cabinet department?

EPA has been correctly criticized for its tendency to address the environment media by media. For example, air pollutants do not restrict their damage to the air, they are deposited in lakes and rivers, in the soil, and on forests and crops. The long range transport of toxic chemicals and heavy metals has polluted the Great Lakes and may be poisoning our fisheries.

A reorganization would provide an excellent opportunity for a more multimedia approach to environmental problems and their solutions.

10. Is there evidence that there are external barriers and impediments to timely decision making and executive action that could be detrimental to improving the efficiency of agency programs? And would these impediments be improved or mitigated by elevation to a cabinet department?

There is considerable evidence that external barriers have provided consistent obstacles to the progress of environmental regulation. For example, the concerns raised by OMB's increasing control over the regulatory process have led to several investigations over the past few years. An August, 1984 report by the House Energy and Commerce Oversight Subcommittee found that OMB had transmitted industry views and information without identification; substituted political considerations for economic analyses; used oral rather than written directives to EPA; had secret meetings with industry representatives; arbitrarily delayed the review process, sometimes forcing violations of deadlines either contained in the law or imposed by court order; and used political pressure to force EPA officials to modify or completely displace technical, scientific or policy judgments.

11. Would elevation to a Cabinet department help recruit and retain better qualified leadership within the agency?

An environmental Department would attract politically skilled and well-known candidates. Indeed, the Secretary of Environmental Protection could become one of the more attractive offices in the federal government, given the breadth of its responsibility and its impact on domestic and international activities. For the same reason, a President would seem likely to view this job as a political plum; and many would actively seek out trusted advisers who could help the Administration navigate the shores of environmental policy. Not only would the job be visible to a broad cross-section of the population, but it would have a national constituency and an international responsibility. These are critical elements of power in Washington.

The current EPA Administrator is unquestionably qualified, with an excellent record as an aware and politically active environmental advocate. The added prestige of a Cabinet Department would help to attract the highest level of qualified personnel at all levels of the organization.

12. Is there evidence that a Cabinet department would facilitate more uniform achievement of broad, cross-cutting national goals such as: better integration of research; national assistance and information programs; equitable decision-making criteria; government-wide personnel and budgetary controls; more efficient management and disposition of federal real property assets; and the comprehensive coordination of strategies?

A secretary of the Environment would be in an improved position to comprehensively coordinate and implement both national and international environmental policies. For example, EPA interacts with virtually every other Cabinet Department. The Department of Energy and Defense have major remedial projects underway at their facilities and DOE has program responsibility for nuclear waste disposal. EPA deals with Agriculture on pesticides and non-point source pollution, and interacts with Interior on these issues, as well as outer continental shelf development, fish and wildlife resources and groundwater. EPA comments on the environmental impacts of highways and airport responsibilities of the Department of Transportation, and shares oil and hazardous materials clean-up responsibilities with the Coast Guard. EPA also shares responsibilities for environmental health research with the Department of Health and Human Welfare, and for workplace health protection with the Department of Labor.

Our national goals cut across all sectors of society and all kinds of pollution. The scope of the problems as well as the complexity of their solution and the delegation of responsibilities between the manifold arms of the government will be greatly improved by a more centralized, more politically powerful Department of the Environment.

13. Would elevation to a Cabinet department weaken or strengthen the Cabinet and the Executive Office of the President as policy and management aids to the President?

Elevation would strengthen the Cabinet and its effectiveness. It would provide the President with consistent access to information, would be likely to encourage further Presidential involvement in environmental policy-making and the support of legislative measures, would help to ensure that adequate resources are allocated for commitments made to the citizens of the United States Congress, and help to guarantee that environmental considerations will be included in the formulation of all major domestic and international policy.

14. Would elevation to a Cabinet department have a beneficial or detrimental effect upon the oversight and accountability of the agency to the President and the Congress?

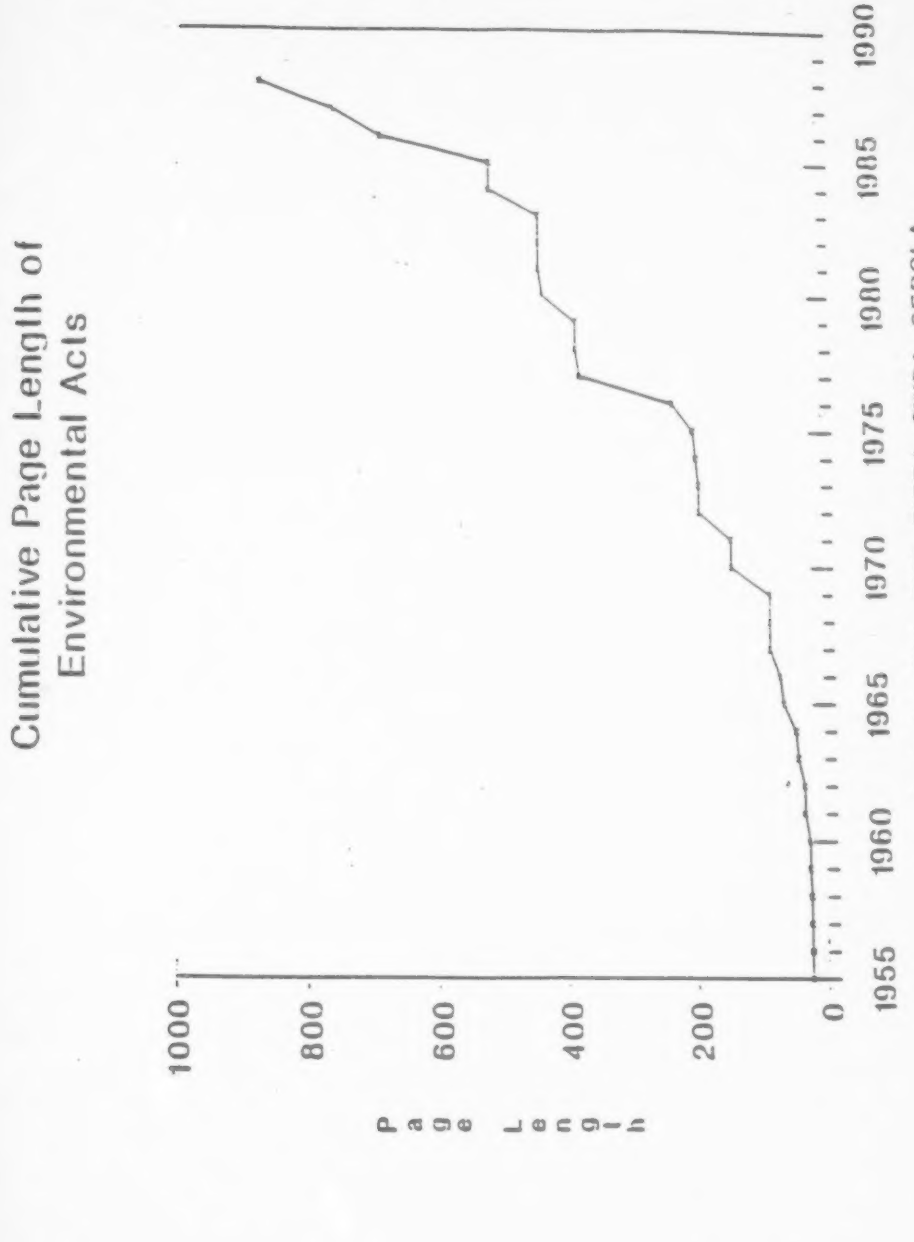
The elevation of EPA to Cabinet status would strengthen oversight and accountability to both the President and Congress. First, it would provide the President with an increased day-to-day involvement with environmental issues. And second, it would give the Senate Environment and Public Works Committee jurisdiction over a Cabinet appointment, a jurisdiction every other major authorizing committee now has. Congressional review of Secretarial candidates within the appropriate committee might help the appointment of candidates with poor environmental records, candidates of the kind who have significantly undermined EPA's effectiveness in past Administrations.

Appendix 2:

EPA Statutory Authorities

1970	Present
Clean Air Act	Clean Air Act
Federal Water Pollution Control Act	Federal Water Pollution Control Act
Solid Waste Disposal Act	Solid Waste Disposal Act
Federal Insecticide, Fungicide, and Rodenticide Act	Federal Insecticide, Fungicide, and Rodenticide Act
	Clean Water Act
	Noise Control Act
	Marine Protection Research and Sanctuaries Act
	Safe Drinking Water Act
	Toxic Substances Control Act
	Resource Conservation and Recovery Act
	Comprehensive Environmental Response, Compensation and Liability Act (Superfund)
	Asbestos School Hazard Abatement Act
	Superfund Amendments and Reauthorization Act
	Asbestos Hazard Emergency Response Act
	Global Climate Protection Act
	Uranium Mill Tailings Radiation Control Act
	Federal Food, Drug and Cosmetic Act

Appendix 3:



Cumulative Page Length of Environmental Acts

Includes CAA, CWA, FIFRA, SWDA, CERCLA, SDWA, and TSCA

Appendix 4:[6]

Workload Indicator	1975	1989
Number of pollutants requiring control	5	Well over 500
Number of industrial and municipal sources to regulate		
Conventional sources	45,000	69,000
Newly regulated direct toxics dischargers	0	17,000
Toxics dischargers into sewers	0	40,000
Number of actions required to control "nonpoint pollution"		
Nonpoint source plans to approve	0	52
Nonpoint sources to control	0	Millions
Difficulty of implementation (ease of issuing a permit, of source and ambient monitoring, etc.)	Demanding	Far more technical, and complex

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[6] Environmental Safety. American's Transition: Blueprints for the 1990's, January 25, 1989, p. 21.

Appendix 5:[7]

S. 2006

TITLE V--ESTABLISHMENT OF THE COMMISSION ON IMPROVING ENVIRONMENTAL PROTECTION

SEC. 503. COMMISSION RESPONSIBILITIES.

The Commission shall be responsible for examining and making recommendations on integrating Federal environmental law and other authorities to improve the ability of the United States to protect the environment. The Commission shall make recommendations and otherwise advise the President and Congress on--

(1) the need for comprehensive pollution control administrative and legislative reforms that would ~~consolidate, rationalize,~~ **improve** and strengthen the management of Federal environmental protection;

~~(2) the advantages and disadvantages of unifying existing major statutory authorities~~;

(2) ~~(3)~~ new or modified institutional arrangements, processes, or regulations that would improve the integration and delivery of Federal environmental protection, research, and planning programs; and

(3) ~~(4)~~ specific steps and proposals for implementing the Commission's recommendations.

SEC. 504. REPORT TO THE PRESIDENT AND CONGRESS.

(a) The Commission shall report to the President and the Congress on its investigation, findings, and recommendations in an interim report no later than 12 months after the effective date of this title, and in a final report no later than 24 months after the effective date of this title. The interim report shall be made available for public review and comment, and the comments taken into account in finalizing the report.

(b) Nothing in this title shall authorize the Commission to address, analyze, report, or make recommendations as to the substantive regulatory responsibilities of the Department under existing or proposed law.

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[7] Changes to the Senate language are shown by strike-out for deletions and bold for additions.

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TESTIMONY OF THOMAS B. STOEL, JR.
SENIOR STAFF ATTORNEY
NATURAL RESOURCES DEFENSE COUNCIL
BEFORE THE
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS
February 7, 1990

Mr. Chairman, I appreciate very much the opportunity to testify at this important hearing. I am Thomas B. Stoel, Jr., Senior Staff Attorney at the Natural Resources Defense Council (NRDC). During 1988, I also was the Chair of Project Blueprint.

NRDC is one of the Nation's leading environmental organizations, with more than 120,000 members in every state and more than 30 foreign countries. Project Blueprint was a major cooperative effort of the U.S. environmental community to recommend to the Bush Administration the actions needed to address the full range of national and international environmental problems.

I. The Need for a Department of the Environment

Mr. Chairman, I am here to testify in favor of most of the provisions of S. 2006, a bill that would transform the Environmental Protection Agency into a new Department of the

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Environment. The 18 national environmental groups that came together in Project Blueprint strongly endorsed this idea. The Project's November 1988 Summary Report states:

> The environmental problems we face are of the greatest importance to this Nation and the world. Those with principal responsibility for dealing with them must sit in the highest councils of government. Therefore, we recommend that the President propose to the Congress the creation of a new, Cabinet-level Department of Environmental Protection to replace the present Environmental Protection Agency.

The Natural Resources Defense Council certainly favors the creation of a new Department. This Nation and the entire world confront environmental problems of unprecedented seriousness. Our Nation's health is threatened by toxic substances in our air, water, and soils. Our quality of life is jeopardized by degradation of our land and our inland and coastal waters.

We are just as threatened by environmental problems that extend beyond our borders. Acid rain, ozone depletion, pollution of the oceans, global warming of the atmosphere, widespread degradation of agricultural lands, and massive extinctions of plant and animal species pose not only direct threats to our country but severe risks to the whole world. The resulting environmental degradation and collapse of the natural resource base could lead to political and economic instability, with severe adverse consequences for all the people of the earth. We are already seeing examples of this in such places as Haiti, sub-Saharan Africa, and Eastern Europe.

As the danger of nuclear war recedes and East-West tensions abate, many observers believe that these environmental problems present the single greatest challenge to the human future. The United States is the most powerful and influential nation on earth. We must use our wealth, know-how, and technology, as well as our political influence, if these problems are to be solved. There is no time to lose. Most of these problems are steadily getting worse. Some of them will become irreversible if we do not act soon.

In view of this extraordinary and urgent challenge, it seems evident that the United States should have a Cabinet-level agency to address these issues. In 1970, when environmental problems were relatively new, it may have seemed adequate to create an environmental agency -- the EPA -- that reported directly to the President but lacked Cabinet status. Now it is clear that the environmental problems I have noted must receive attention at the highest possible level.

Lack of Cabinet status hurts the EPA in addressing domestic problems. The EPA Administrator is often a guest at important meetings, instead of being there as a matter of right. Cabinet meetings are an obvious example.

Environmental problems often require interagency cooperation between EPA and Cabinet Departments like Agriculture, Interior, Energy, State, and Transportation. Yet Cabinet-level heads of other agencies sometimes are reluctant to permit the EPA Administrator to chair interagency committees or assume other leadership roles.

Lack of Cabinet status for EPA is even more harmful with respect to international problems. Many foreign countries have Cabinet-level environmental ministries. These include Britain, Canada, India, Indonesia, The Netherlands, Norway, and Sweden, to name only a few. These countries created cabinet-level agencies to demonstrate that they attach great importance to environmental protection. For the United States not to have such an agency is bound to send the opposite message, no matter what we say to the contrary.

This is especially true because most of the countries with which we must cooperate have a parliamentary form of government, in which supreme power is exercised by the Cabinet. For the EPA Administrator to lack Cabinet status sends these nations the message that EPA is a second-class agency. Given the nuances of international relations, these signals of second-class status inevitably diminish the Administrator's international influence.

It seems appropriate that foreigners, and American citizens as well, should draw this conclusion. After all, what is the purpose of distinguishing between Cabinet Departments and other federal agencies except to identify the agencies that are most important? Looking at an organization chart of the U.S.

Government, it is evident that EPA's "independent agency" status is shared mainly by agencies like the CIA whose main role is not to exercise authority but to give advice; agencies like the U.S. Agency for International Development that are regarded as satellites of other agencies (in AID's case, the State Department); and agencies like the National Science Foundation that are specialized and relatively small.

EPA fits none of these categories. The logical explanation for EPA's exclusion from Cabinet status is that the United States still has the illusion that environmental problems are a minor, and perhaps temporary, responsibility of our national government, to be dealt with only after the truly important problems of defense, health, education, economic welfare, and the like.

Few illusions could be more harmful. It is time to dispel this one by elevating EPA to Cabinet rank. In fact, the case for taking this step is so strong that it is hard to come up with any arguments on the other side. The costs to the federal budget are so small that they can't be taken seriously. When the leaders of Project Blueprint met with President Bush in the fall of 1988, he indicated that elevating EPA might make Cabinet meetings too crowded. In reality, as we approach the 21st century, the head of the environmental agency is one of the last who should be left out of interagency meetings.

Mr. Chairman, President Bush has now come to share the view that we need a Department of the Environment. I suspect that his conversion makes it virtually unanimous. NRDC urges you to pass a bill similar to S. 2006 as swiftly as possible.

II. Comments on Specific Provisions

While NRDC generally favors S. 2006, we have some suggestions for improvements. First, NRDC believes that Title II of the bill should be improved by adding a new section concerning the Department's international responsibilities. As illustrated by the current debate over global warming, these international functions will be among the most important responsibilities of the new Department. Yet EPA presently has no statutory mandate in this area. Unless one is provided, a Secretary of the Environment with little interest in these issues, or a State Department eager to protect its turf, could unacceptably diminish the Department's role.

NRDC therefore suggests that S. 2006 be amended to include provisions contained in Section 108 of the corresponding House bill, H.R. 3847. That section encourages the Secretary to participate in the negotiation and administration of international agreements; participate in the work of international organizations; carry out research and provide technical assistance; and ensure that the public is able to participate in the formulation and negotiation of international agreements.

Second, NRDC is concerned about some of the provisions of Section 208, establishing a Bureau of Environmental Statistics. While NRDC favors the creation of such a Bureau, we believe every precaution should be taken to prevent this important function from being politicized. Therefore, we suggest amending S. 2006 to require that the Director of the Bureau to be appointed for a five-year term, as is provided in the corresponding House bill.

NRDC opposes Section 208(a)(5) of the bill, which would give the new Bureau principal responsibility for preparing the annual Environmental Quality Report required under Section 201 of the National Environmental Policy Act (NEPA). The essence of the Environmental Quality Report is to be a government-wide analysis of our environmental situation and what our Nation should do to address environmental problems. This necessarily involves review of and recommendations concerning matters within the responsibility of many federal agencies other than the new Department, including but not limited to the Department of the Interior, Department of Energy, Department of Agriculture, Department of Transportation, and Department of State, the National Oceanic and Atmospheric Administration, and the Agency for International Development.

The task of reviewing and assessing our overall environmental performance should not be given to just one of the agencies involved. Congress established the Council on Environmental Quality in the Executive Office of the President partly to perform this very function. CEQ should continue to perform it, with assistance from the new Bureau. Therefore, NRDC urges that Section 208(a)(5), and if necessary Section 208(c)(1), be amended to make it clear that the role of the new Bureau shall be to assist, in cooperation with other agencies, in the preparation by CEQ of the Environmental Quality Report.

Third, also with respect to Title II, we suggest that the bill be amended to provide that the present Assistant Administrators of EPA become Assistant Secretaries in the new Department without the necessity for confirmation hearings.

Fourth, NRDC has suggestions with respect to Title III, which would establish an Interagency Committee on Global Environmental Change. This is similar to one of the recommendations of Project Blueprint, which recommended that there should be a high-level interagency group on global climate change. NRDC therefore supports the establishment of such a Committee. However, we think it essential that the Committee be chaired by either the President or the Secretary of the Environment. President Reagan once put former Interior Secretary James Watt in charge of a similar interagency group. That kind of thing must not happen again.

Fifth, NRDC has comments on Title IV, which deals with the role of the United States in international organizations. We strongly recommend that Finding (2) of Section 401, describing the policies needed to address global environmental change, be amended to add the need for actions to curb overly rapid population growth, which is a root cause of the other problems mentioned.

NRDC believes that Section 402, dealing with multilateral lending for energy conservation and environmental protection, is too weak. Appropriations bills on foreign operations, including the current bill for Fiscal 1990, repeatedly have directed the Secretary of the Treasury to instruct the U.S. Executive Directors of the multilateral banks to take the kinds of actions required by S. 2006. Section 402 only "urges" the Secretary to act. We must oppose any such provision unless it firmly directs the Secretary to take these actions, which have already been legally required.

Sections 403-08 urge the Secretary of State to convene an international energy conference and host negotiations for a climate protection convention, and direct the President to encourage the establishment in the UN Environment Program and World Meteorological Organization of an international carbon dioxide monitoring program. We share the goals of these provisions. However, we believe Section 403 should specify that the subjects to be addressed by the energy conference must include ways of providing financial and other assistance needed by developing countries to take advantage of the opportunities presented by energy efficiency and renewable energy technologies.

With respect to Section 404 urging the Secretary of State to host the negotiation of a global convention on climate change, we would note that President Bush himself has already issued such an invitation. Section 404 should be modified to take this into account.

Moreover, NRDC strongly believes that any provisions relating to a global convention must include a statement that it is the sense of the Congress that progress toward such a convention will be possible only if the United States and other industrialized countries make clear from the outset their willingness to reduce substantially their own emissions of the major greenhouse gas, carbon dioxide, and that the United States should take the lead. It is not credible to believe that developing nations will agree to a convention until the world's richest nations confirm that they are willing to act. Yet the United States is one of a few nations that are now blocking such an agreement among the industrialized countries.

We favor the proposed international carbon dioxide monitoring program proposed in Section 405. However, we believe it is too early to decide whether an office established for this purpose should ultimately have responsibility for administering a global protocol, as suggested in the bill.

Finally, NRDC has comments on Title V, which would establish a Commission on Improving Environmental Protection. We believe the findings in Section 501 concerning the adequacy of present environmental laws and structures are highly debatable and unnecessary, and should be deleted. We think that if such a Commission is to be created, its main purpose should be to examine the organizational structure of the United States Government and assess whether changes in that structure are needed in view of the environmental challenges we face. Statutory changes should be considered only as they may be necessary to achieve organizational goals.

In particular, we believe the bill should make clear that the Commission is not charged with examining the statutes currently administered by EPA with a view to possible consolidation or other changes. If the new Department wants to take such a look, it is capable of doing so without a Commission.

We fear that the Commission could become politicized. To avoid this, we suggest including a provision like that in Section 202 of the corresponding House bill, H.R. 3847, requiring that the members of the Commission shall be individuals who have extensive experience at the federal or state level in administering environmental programs. Including individuals with this kind of experience should make it possible for the Commission to operate much more cheaply than proposed in S. 2006, since the members already will be familiar with the basic issues involved.

III. The Department's Budget

Establishing a new Department is important for the reasons we have stated. However, it will be an empty gesture unless the Department has adequate resources to do its job.

EPA has been chronically underfunded during the past decade. EPA now faces twice the workload of 1981 with fewer resources in real terms than it had in 1975.

NRDC believes that to meet these expanded responsibilities, the new Department's operating budget must be doubled over the next four years, beginning with a 25% real increase in Fiscal 1991. This would require an increase of $555 million in Fiscal 1991, as compared with the $230 million requested by President Bush.

IV. Conclusion

Mr. Chairman, I want to conclude by thanking you once again for the opportunity to testify. We hope that legislation similar to S. 2006 will soon become law.

ENVIRONMENTAL DEFENSE FUND

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Frederic D. Krupp
Executive Director

STATEMENT OF

FRED KRUPP

EXECUTIVE DIRECTOR

ENVIRONMENTAL DEFENSE FUND

BEFORE THE

GOVERNMENTAL AFFAIRS COMMITTEE

U.S. SENATE

FEBRUARY 7, 1990

Mr. Chairman, and the other members of the Committee, I am pleased to speak with you today along with my other colleagues representing several of the nation's largest public interest environmental organizations.

I am the Executive Director of the Environmental Defense Fund. On behalf of myself and the 150,000 members of the Environmental Defense Fund, I thank you for the opportunity to add our voices to the groundswell of support for the Department of the Interior Act of 1990, S.2006.

Formally changing the Environmental Protection Agency from an independent agency to a full department of the United States

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Government and lifting the EPA Administrator into the President's cabinet are actions long overdue. The deafening absence of any vocal opposition to this proposal, within Congress or U.S. industry, surprises none of us in this room. The accelerating crush of American public opinion dictates the successful passage of S 2006.

President Bush has sent a healthy signal for the environment by reversing his longstanding opposition to cabinet status for the EPA Administrator. But the real measure of this President's commitment to the environment will manifest itself the way it always has for every President since 1970.

And that measure is, does the President seek out the views and counsel of his top environmental advisor? Does he lead by example, encouraging his other cabinet secretaries, senior staff and industry leaders to do the same? Does he build every decision from the ground up beginning with the environment?

The Secretary of the Environment has a significant interest in the decisions of virtually every other cabinet member, a fact most obvious in regard to Energy, Interior, Commerce, Transportation, State, Agriculture and Labor. That the consideration of every decision of each of these Secretaries should begin with the environment is a principle whose time has arrived. The NEPA environmental impact statement process is its crude precursor.

Do we need to look further than Superfund or Exxon Valdez for proof environmental protection must enter decisionmaking at the beginning or we'll remain stuck forever spending billions on environmental cleanup.

To understand the unleashed power of this perspective, take this simple test: Pull your wallet out of your pocket or purse and remove a dollar bill. Now ask yourself, "Is there any way I can possibly spend this dollar that won't affect the environment in some way?" Try it.

By the end of these three days of hearings this committee will have a poignant record of EPA's woes, the legacy of eight years of Presidential neglect and hostility. Soon the woes of the EPA will become those of the Department of the Environment. The Department of the Environment needs adequate funding. Without more money to hire and keep the best environmental scientists, economists and lawyers and other professionals the Department of the Environment will fail us.

Let me join my colleagues today in reiterating the call we voiced in a letter sent to every Senator and Representative two weeks ago. Raise the EPA operating budget by 25% in constant dollars by the end of 1990 and double it by the end of President

Bush's four years in office.

If no one opposes S.2006 and none of us has any doubt the bill will pass and become law, then why are we here?

We are here, Mr. Chairman, to bear witness to the extraordinary state of the national will to include the environment in every single decision made by government, business and individuals from this day forward.

As the head of a national environmental organization I feel keenly the power of public support driving the green engine. With the events of Eastern Europe's Christmas 1989 fresh in mind can any of us remember a moment in our lifetime riper with risk, promise and sheer drama? The military-industrial cold war economy which pulled the U.S. out of the Great Depression and sustained it for 40 years just lost its engine.

Global warming may have just replaced the cold war as the unifying issue in the world. Just as the threat of nuclear holocaust defined the economies, political cultures and national identities of much of the world the last 40 years, so will the threat of uncontrollable environmental change define our next 40 years.

Thirty years ago, we found grass roots expressions of

American cold war fears in suburban backyard bombshelters. Today Americans express their fears and hope through volunteer-staffed recycling drop-off stations in supermarket parking lots.

The era in which our most critical international negotiations revolved around arms control treaties has given way to an era in which a chlorofluorocarbon protocol and a CO2 convention uphold mankind's hope for survival. Missile reduction yields to CO2 emissions reduction.

By lifting the EPA Administrator into the cabinet we send a poignant message to the rest of the world that the United States intends to assume international leadership in environmental matters. There is a grave danger here in raising expectations through this symbolic change, however. The U.S. must follow up with bold meaningful action such as committing to cap its own CO2 emissions.

I wish to draw particular attention to S. 2006 Title III which would establish an Interagency Committee on Global Environmental Change. This provision is extremely important and I urge the President to implement Title III at the earliest possible moment.

Does anyone doubt seriously whether the top environmental official of the world's most powerful and most polluting nation belongs at the President's side? Right now we are fortunate William Reilly has President Bush's ear. This circumstance stands in stark contrast to EPA's dark years under President Reagan, when EPA Administrators (those who weren't self-proclaimed dismantlers) acted as caretakers of an institution and a commitment openly abandoned by the President.

Elevating the EPA to department status institutionalizes this President's expressed commitment to the environment. While it may only marginally enhance William Reilly's reasonably good access to President Bush, this institutional change may make it a little bit more difficult for another President to do to the Department of the Environment one day what President Reagan did to the EPA in the 1980's. And it may help keep President Bush from flinching from his commitment.

Thank you.

TESTIMONY
OF
MICHAEL McCLOSKEY
SIERRA CLUB
BEFORE
THE SENATE
GOVERNMENT AFFAIRS COMMITTEE
ON S. 2006

February 7, 1990
Washington, D.C.

Mr. Chairman, I am Michael McClsokey and am testifying today on behalf of the Sierra Club, whose Chairman I am. The Sierra Club has been deeply involved in concerns over combatting pollution for many years and was among the early organizations urging that the Environmental Protection Agency (EPA) be established. Therefore, we welcome the opportunity to testify in support of the bill Senators Glenn and Roth (S. 2006) have introduced to elevate EPA to the level of a cabinet department in the federal government.

We believe that there ought to be a Department of the Environment, and that EPA should constitute its core. Over the years of this Republic, new departments have been created from time to time as our society came to perceive accumulating problems that required the attention of the federal government. Certainly today environmental problems are as challenging as those addressed by departments of transportation, veterans affairs, energy, mineral development (Interior), agriculture and commerce. Indeed, more so than these departments, EPA addresses fundamental questions of life, death and health and the survival of conditions needed for all living things. Few departments address questions as fundamental as these.

Moreover, in terms of importance, the environment should be perceived as a cross-cutting issue (rather than a sectoral issue) which provides underlying conditions needed for other departmental programs to succeed. EPA cleans up pollution to improve public health; it tries to combat climate changes which would undermine agriculture; it tries to foster recycling and fuel efficiency which will provide more materials for the American economy. It helps keep the American work force healthy; removing lead from the environment enables children to learn better. With this cross-cutting characteristic, other departments will find it easier for them to achieve their missions as the environment gets more emphasis.

EPA already is a substantial operation and would not be dwarfed by other cabinet departments. It is now the largest of the non-cabinet agencies and oversees the spending of billions of dollars annually. It is on a par with other cabinet departments in terms of size and importance.

The issues it deals with attract as much policy attention from the Congress and the public as many departments, and they deserve more attention and oversight from the President. These issues should be dealt with in the cabinet because the programs of other departments are often intertwined with projects of EPA. Those who run these other departments should be exposed more to EPA's responsibilities and sensitized to the need to cooperate. The Director of the EPA should have a status which allows him to participate fully in cabinet meetings.

EPA is one of the most important environmental ministries in the world and helps set the standard for enviornmental policy on a worldwide basis. Its administrator is constantly dealing with the heads of such ministries. The only thing clouding his status in dealing with these ministers is that he does not have ministerial status himself. Our EPA lacks cabinet rank whereas many others around the world have it. The absence of such rank can be interpreted as a statement about the lack of priority accorded to the issue here.

And the head of EPA also needs cabinet rank in dealing with the other cabinet rank officer in the U.S. government. He should not appear to have junior rank when he must press the Secretary of State to cooperate on the global warming problem, or the Transportation Secretary on CAFE standards, or the Treasury Secretary on matters affecting the environmental performance of multilateral development banks. He needs clout in pressing the Energy Secretary to clean up weapons production facilities and the Defense Secretary superfund sites on air bases. They should see the Secretary of the Environment as a cabinet officer with equal access to the President who can mount an appeal there as easily as they can. He should be seen as someboy who could more logically head a Cabinet Council on Environment and Natural Resources than the Secretary of the Interior.

As the pollution control challenge mounts, Presidents tend to see environmental concerns as centered with the Administrator of EPA much more than at the Interior Department or elsewhere. In fact, this perception can lead to a neglect of the environmental components of those other departments. Nonetheless, this natural trend in perception cries out for recognition in law and practice. Our nation's top spokesman on the environmental crises of the day should be a member of the cabinet, with all that implies in terms of priority and emphasis.

And there should be no doubt that the public does see environmental crises as at a critical stage. Americans now fees that the quality of the environment is deteriorating; a plurality see the quality of the environment where they live as worse today than it was five years ago (Cambridge Report poll, 1988). In the next five years, 75% of the public sees pollution and climate change problems as a very serious threat to national security, on a par almost with problems of nuclear weapons, drugs and terrorists (Martilla and Kiley, 1988). More people see pollution threats increasing than at any time in this decade (Mark Clements, 1987). The Gallup poll in 1988 found 73% of the public very concerned about air pollution and 84% concerned about water pollution.

And this concerned public wants something done about these problems. 90% want pollution control made a top priority of our government (Washington Post/ABC News Survey, 1989). 74% of the public now believes pollution controls cannot be too strict and should be pursued regardless of the cost (Ibid.). And a recent Harris poll finds that 68% of the public is willing to pay more taxes to fight acid rain and toxic waste dumping. Solving environmental problems clearly is a major function of government as far as the American people are concerned.

And there is data to support the public's apprehensions about what is happening to their environment. Ozone levels jumped again in the mid-1980's, and 1987 and 1988 brought the worst smog in many years. With the growth in vehicle miles driven projected in the next decade, air quality will deteriorate further unless firm action is taken. 140 million Americans now live in communities with unhealthful air. 40,000 people die each year from uncontrolled sulfur dioxide fumes in our air. Nearly twenty three billion pounds of toxics are dumped into our environment annually. Thousands of cases of cancer result. Damage to the stratospheric ozone layer is predicted to cause 40 million more deaths worldwide each year from skin cancer.

The crisis is real, and EPA is supposed to be getting the support it needs to turn these problems around. But EPA was a stepchild agency through most of the 1980's and did not get Presidential support. Its budget was cut, leaving it with twice as much work as in the mid-1970's and with no more funding than then and the erosion of the dollar as well; and 1% increases in funding will not cure the problem. Lacking priority support, hamstrung by budget limitations, and being pressed to delay by every regulated industry, EPA has been able to regulate only 10% of the potentially dangerous types of hazardous waste; only a start has been made on cleaning up hazardous waste dumps. It has set limits for only two of the chemicals which contaminate drinking water, and it has set standards for only six of the hundreds of toxics found in industrial air emissions. Of the 600 chemicals in pesticides suspected of causing cancer or birth defects, EPA has banned only 32.

EPA clearly needs major new impetus. At last, it has refreshing new leadership and a greater degree of Presidential backing, but it also needs to command more resources to tackle the job. By elevating its status, Congress will send a message that this enviornmental work does not take second place behind other work. EPA needs front rank status, high visibility, unqualified Presidential backing, access on a par with all other departments, a vote of confidence, and a new mandate from the Congress and the President to "get cracking and get the job done." It is what the American people want. Departmental status is the way to send the message that this is what is wanted.

Specific Comments on S. 2006

Let me add that I think the specific bill proposed has an excellent section to establish a Bureau of Environmental Statistics. It could be strengthened, however, in a number of ways. First, it should not only be responsible for gathering data on the amounts of pollution but also on the exposure of people to them. Second, the bill should make it clear that the Bureau should track trends in environmental quality by different media and develop easily understood indices to express the overall findings for each medium. This is the key to making this data intelligible to the public and policy makers.

Moreover, guidelines should be issued to make sure that the "measures" mentioned in section 208(a)(1) do not turn into an unintentional kind of standard-setting process for allowable levels of pollution. This should be handled by the policy branches of EPA, not by a Bureau of Statistics; the Bureau should not get involved with controversial issues. Furthermore, responsiblity for economic information on projected costs of pollution control (sec. 208(c)(4)) might be better left to policy makers in other parts of EPA. This is a function heavily influenced by policy concerns and might tend to politicize this neutral function in a Bureau of Statistics and call its objectivity into question.

Finally, we oppose transferring responsibility for preparing annual reports on the environment from the Council on Environmental Quality to the Bureau (see sec. 208(a)(5) and (6)). The Bureau should gather and publish the data and point out trends, but the Council should interpret this data in light of national policy and should indeed propose new policy as needed.

The revised House bill on this subject has a provision which establishes a Commission on Environmental Administration. It would look at the case for expanding the department to include other agencies. We support this idea and urge inclusion of a similar provision in this bill. It may well be that responsibilities such as for regulating strip mining ought to be lodged in this department.

This bill does have a provison for a different kind of Commission to look at revising pollution control laws to integrate them and possibly to modify other institutional arrangements. In theory, this is an interesting question, but we are concerned in practice that it could lead to re-debating all provisions of existing law and running a long gauntlet of committee jurisdictions. Achievements in existing law could be jeopardized by the politics of such an ambitious undertaking. If such hurdles are to be faced, we have more interest in thoroughly re-examining institutional arrangements to try to understand why so little progress has been made in standard setting. If a commission is established, we would also suggest that each of the parties appoint an equal number of persons (e.g., five each by the President, the Speaker of the House and the Senate Majority Leader).

Finally, a few comments on detail in the part of the bill governing the appointment of assistant secretaries and deputy assistant secretaries. The present wording of sec. 204(d) suggests that those who have recently been confirmed by the Senate to be assistant administrators of EPA might have to go through a new confirmation process. The bill should be clarified to make it clear that this provision only applies prospectively and that those now in these positions automatically move into the comparable departmental spots without having to undergo confirmation all over again. There is also some lack of clarity about the relationship between sections 204(a) and (b) of the bill with respect to the number of assistant secretaries; subsection (a) limits the number to ten spots, but subsection (b) lists 13 areas of responsibility for them. This wording suggests that the Secretary has free reign in combining and splitting various responsibilities; while some discretion may be appropriate, it may be desirable to provide some guidance about the limits of this discretion. For instance, it is not altogether clear that items (6), (7), (8), and (9) all should be independent of each other, or that air and water should be combined.

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FRIENDS OF THE EARTH℠
Environmental Policy Institute
OCEANIC SOCIETY

STATEMENT OF MICHAEL S. CLARK, PRESIDENT
FRIENDS OF THE EARTH, ENVIRONMENTAL POLICY INSTITUTE
AND OCEANIC SOCIETY

BEFORE THE COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ON S. 2006, THE DEPARTMENT OF THE ENVIRONMENT ACT OF 1990

FEBRUARY 7, 1990

Mr. Chairman and Members of the Committee:

I am Michael S. Clark, President of the recently-merged Friends of the Earth, Environmental Policy Institute and Oceanic Society. Our statement today is made on behalf of the 45,000 members and supporters of our new organization, known collectively as Friends of the Earth, U.S.A. We are an affiliate of Friends of the Earth International, a worldwide environmental network with member organizations in 39 countries.

We greatly appreciate your invitation to share our views on S. 2006 which would elevate the Environmental Protection Agency (EPA) to a cabinet-level department. We would like to thank the Chairman and Ranking Minority Member, Senators John Glenn (D-OH) and William Roth (R-DE), for their introduction of this legislation. We would also like to extend our appreciation to the Bush Administration for its recent policy change and its new commitment to support this bill.

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Our statement this morning can be summarized as follows:

I. Elevation of EPA to a cabinet-level department is important and long overdue.

II. The benefits of this highly-publicized legislation must not be overstated so that it does not distract attention from important environmental issues on the nation's agenda.

III. As drafted, the legislation could undermine the effectiveness of the Council on Environmental Quality (CEQ). Instead, it should expand CEQ's role to complement that of the new Department.

IV. Creation of a Department of the Environment will not, by itself, address fundamental structural and administrative issues which have limited EPA's effectiveness.

  A. Inadequate Program Funding
  B. OMB's Regulatory Review Process
  C. Federal Facility Noncompliance
  D. Unworkable Biotechnology Regulations
  E. International Initiatives

In addition to the legislation's establishment of a new Department, the bill addresses several other matters. It creates a Bureau of Environmental Statistics, an Interagency Committee on Global Environmental Change, and a Commission on Improving Environmental Protection. It also encourages the United States to undertake a number of specific international environmental initiatives.

In short, the bill seeks to resolve a number of structural and administrative obstacles to improved environmental protection. As such, we believe that the bill merits enactment. However, as discussed later in our statement, there are a number of other, more important obstacles which should be addressed by this legislation, if this Committee intends to establish an effective Department.

I. A cabinet-level EPA is long overdue.

As this Committee has learned from a number of witnesses, environmental protection could be enhanced by elevating the EPA to departmental status.

A Department of the Environment is completely justifiable. EPA's staff and budget exceed those of some existing cabinet-level departments. Its mission is not only crucial, but fundamental, to our nation's security and the well-being of our citizens.

A seat at the Cabinet table and increased interaction with other Secretaries could yield significant benefits. Virtually all federal departments direct programs and activities which have major effects on the environment. Yet as this Committee knows all too well, many of these programs actually undermine environmental protection. A cabinet-level environmental advocate could better challenge his or her colleagues to improve or eliminate the environmentally-destructive activities of other federal departments.

At the international level, it has become increasingly clear that the United States must engage other nations with a minister-level representative. We are one of a handful of industrialized nations without a minister for the environment. This has been interpreted by some nations, both for symbolic and substantive reasons, as indicative of our country's lack of real commitment to environmental concerns. This must change if we are to achieve our goals with the ever-growing number of international environmental treaties, conventions, conferences and summits.

II. The benefits of this highly-publicized legislation must not be overstated.

The proposed bill is not a substitute for actual progress on the range of environmental issues which threaten our nation and the planet. We would urge caution in describing the significance of this legislation so as not to undermine the many important issues confronting this Congress.

As Members of this Committee can readily appreciate, the political environment can foster gross overstatements on the significance of any one action, particularly when it can be described as "sweeping," "far-reaching," or "comprehensive restructuring." The result can be a false perception of the importance of a single action. This, in turn, can prevent other important actions from being taken.

This legislation poses just that problem for the environment. An interesting example highlights this point.

In 1970, President Richard Nixon was credited with establishment of the U.S. Environmental Protection Agency and the Council on Environmental Quality. He sent over a dozen environmental proposals to Capitol Hill and sought to become our nation's first modern "environmental" President.

"In place of organizational disorder and fragmentation, we have developed institutions capable of dealing with environmental problems in a systematic and effective way," he said.[1] Three years later, in his State of the Union Message on Natural Resources and the Environment, he said:

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[1] Fourth Annual Report on Environmental Quality, U.S. Council

> When we came to office in 1969, we tackled this problem (of the environment) with all the power at our command. Now there is encouraging evidence that the United States has moved away from the environmental crisis that could have been and toward a new era of restoration and renewal. Today, in 1973, I can report to the Congress that we are well on the way to winning the war against environmental degradation -- well on the way to making peace with nature.[2]

Needless to say, we will never "win" the "war" against environmental degradation. "Making peace with nature" is a long-term, never-ending proposition.

More to the point, however, is the fact that the creation of EPA and CEQ did not halt environmental degradation. Similarly, passage of this legislation by itself will not solve a single environmental problem. Yet, in political and media forums, there is the risk of this action being viewed as a panacea. Set in the wrong context, this could have negative results. Many necessary actions could be pushed aside or shelved because the crowded political agenda is too often determined by short-lived perceptions.

We would urge this Committee to act responsibly: to present this legislation for what it is and to avoid broad overstatements about its benefits.

III. As drafted, the legislation could undermine the effectiveness of the Council on Environmental Quality.

S. 2006 establishes a Bureau of Environmental Statistics within the new Department to assemble a comprehensive set of

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on Environmental Quality, September, 1973.

[2] *Ibid*.

environmental quality measures and to prepare an annual report. It is directed to coordinate information-gathering activities conducted by other federal agencies. The Bureau is authorized to receive $2.8 million in fiscal year 1991 and $5.4 million in fiscal year 1992.

An expanded federal effort for data collection and interpretation is essential. Numerous federal agencies, operating under more than a dozen statutes, are responsible for gathering information on environmental quality. Yet, the federal government is data rich and information poor. Too few resources have been devoted to analyzing and interpreting data -- including long-range forecasting -- for the benefit of policy-makers, elected officials, and the general public.

For example, vital data on global deforestation have been collected from satellite imagery for many years. However, these data have not been interpreted comprehensively to assess long-term trends in the Earth's forest cover. Similarly, under the Clean Water Act, much data are collected from individual industrial dischargers, but rarely is this information assembled and evaluated on an ecosystem-wide basis. The history of information-gathering programs reveals consistently that too few resources are devoted to data synthesis and interpretation.

Virtually all of the responsibilities of the proposed new Bureau were delegated to CEQ under Title II of the National Environmental Policy Act of 1969 (NEPA). NEPA established CEQ to:

- prepare an annual report on environmental quality;
- gather, analyze, and interpret data concerning conditions and trends in the quality of the environment;
- review and make recommendations on the various programs and activities of the federal government concerning environmental quality; and,
- advise and assist the President on matters of policy and legislation.

CEQ has been unable to fulfill its mission because the Reagan Administration virtually decimated the organization. Its budget and staff were cut to a skeleton cadre. Its influence on federal policies and programs was extremely limited.

Yet CEQ's mission remains crucial. It is charged with conducting independent assessments of environmental quality and independent evaluations of other federal programs. It is housed in the Executive Office of the President and is directed to advise and assist the President and other Departments on important environmental issues.

To its credit, the Bush Administration has sought to revive CEQ. The Administration appointed a well-qualified environmental advocate as its Chairman and has increased funding for the organization. Congress should expand CEQ's role and its funding authorization to complement the new role of the Department of the Environment.

In our view, the new Bureau of Environmental Statistics should be organized under CEQ and not, as proposed in the legislation, under the new Department of the Environment. The Bureau's mission is broader than that of a single department.

It must be independent and have an ability to influence the information-gathering activities of many federal departments and agencies. Moreover, the Bureau's information should be used effectively. CEQ is best positioned to complement the new Department of Environment, situated as a special advisor to the President, to influence the policies and programs of all federal departments.

IV. Creation of a Department of the Environment will not address some of the fundamental issues which have limited EPA's effectiveness.

The key structural and administrative issues which have limited EPA's effectiveness have little to do with whether it has a seat at the Cabinet table. We encourage this Committee to take advantage of the opportunity afforded by this legislation to resolve and secure commitments on a number of issues which have plagued the EPA. Quite simply, an effective and successful Department of the Environment will require more than new letterhead.

A. Inadequate Funding

EPA program funding suffered miserably under the Reagan Administration and the results have been tragic. Literally hundreds of standards have yet to be developed; dozens of regulations have yet to be promulgated; and, the number of enforcement actions has only recently begun to rise significantly.

Entire new programs enacted by Congress have received only minuscule levels of funding. For example, the much-heralded

Nonpoint Source Pollution Control Program was created in the 1987 amendments to the Clean Water Act. It combats runoff pollution, which may be responsible for the majority of contaminants to the nation's waters. This program was authorized to receive a total of $400 million over the four-year period 1988-1991. Total funding to date, including that proposed in the President's FY 91 budget, is less than $70 million. Similar situations exist for other new programs.

EPA Administrator William Reilly said last week that the EPA operating budget[3] is the most important measure of our nation's dedication of resources to the environment. *Yet the operating budget for the EPA this year is lower than it was in 1979, if the effects of inflation are considered.* Even the Bush Administration's proposed 8% real increase for the EPA operating budget in fiscal year 1991 will only bring the agency to about 1979 funding levels. (See attached chart.)

EPA's workload has more than doubled in the past decade. Congress has enacted a host of laws which simply cannot be implemented without adequate funding. These include the Superfund amendments (1986), Clean Water Act amendments (1987), Safe Drinking Water Act amendments (1986), and Resource Conservation and Recovery Act amendments (1984), just to name a few.

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[3] The operating budget is the core EPA program. It excludes capital and grant programs such as Superfund and sewage treatment.

EPA Operating Budget[4]

(constant FY 91 dollars)

Fiscal Year	1979	$2.12 billion
	1990	$1.99
(Bush proposed)	1991	$2.15

The leaders of fourteen environmental groups, including all the groups with me today on this panel, have asked Congress to double the EPA operating budget by the end of the current Bush Administration's term of office three years from now. We have asked for a real increase of 25% in fiscal year 1991 to a total of $2.5 billion. That will require an increase of about $575 million over FY 1990's current level of appropriations.

The new Department will fail in its mission without significant additional resources. For this reason, we believe that this Committee should capitalize on the opportunity created by this legislation to secure commitments from the Budget and Appropriations Committees which would provide at least a 25% increase in EPA's operating budget.

B. OMB's Regulatory Review Process

Over the last decade, numerous Congressional investigations have revealed the enormous influence of the Office of Management and Budget (OMB) on environmental policies and regulations. OMB's Office of Information and Regulatory Affairs (OIRA) has shown open hostility toward environmental laws enacted by Congress. OIRA has delayed, weakened, and even blocked regulations aimed at protecting our nation's air, land and water.

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[4] Budget authority in constant FY 1991 dollars using OMB deflators.

OMB's regulatory review authority stems largely from Executive Order 12291 which was signed by President Reagan on February 17, 1981. The Order mandated sweeping changes in the federal regulatory and policy-making process. In effect, all proposed regulations, policy statements, even testimony before Congress, had to be approved by OMB.

There are numerous examples of OMB's inappropriate interference with the EPA regulatory processes.

- **Toxic Pretreatment** -- These regulations sought to combat toxic discharges to city sewers and waterways, affecting 60% of the nation's industrial polluters. OMB's 2-5 year delay in the program was stopped only by a lawsuit of the Natural Resources Defense Council.
- **Asbestos** -- These regulations sought to prohibit manufacture and use of certain categories of asbestos and to phase out other production and use over 10 years. Congressional investigations and public outrage finally broke the OMB logjam, 5 years after EPA had the rules ready for proposal.
- **Chemical Industry Air Pollution** -- These standards and guidance documents blocked by OMB were to be promulgated no later than August 7, 1982. Eight years later, they still have not been issued.
- **Toxic Characteristics Leaching Procedure** -- This new regulation is intended to establish criteria to define what is or is not "hazardous" waste. It has been delayed three years by OMB.
- **Corrective Action Regulations** -- These regulations set the rules for cleaning up hazardous wastes at sites not covered by Superfund. OMB has delayed and tried to weaken the rules substantially for over a year. They still have not been issued.

OMB's influence over agency decisions is quite significant. In the words of one former OIRA official, "The government works using three things: money, people and regulations; the agency must get all three from OMB." In fact, an agency can be required to obtain five separate clearances from OMB in order to issue a regulation: one to collect information, a second to begin rule development, a third before it is proposed, a fourth before it is promulgated, and a fifth as part of reporting requirements.[5]

OMB's power must be controlled more effectively. At a minimum, OMB must adhere to strict deadlines and must be forced to operate on the record with extensive public reporting requirements. We would encourage this Committee to address this problem either through this legislation or through the reauthorization of the Paperwork Reduction Act.

C. Federal Facility Noncompliance

This Committee has conducted a number of important hearings and its Members have introduced several bills to combat the problems of noncompliance with environmental laws at federal facilities, particularly those of the Department of Energy (DOE). These inquiries have revealed that a regulatory agency's ability to issue unilateral administrative orders coupled with the power to sue for noncompliance is a proven, effective enforcement tool.

EPA does not presently have this authority with respect to federal facilities. Moreover, the proposed legislation does not grant this authority to the new Department.

As you know, the problems of federal noncompliance with environmental laws are massive. Federal facilities which handle or dispose of hazardous wastes are located in virtually every state. The facilities, which are owned by the DOE, Department of Defense and other agencies, generate millions of tons of hazardous waste each year, much of it mixed with radioactive substances. A high level EPA official testified that federal government facilities are among the worst hazardous waste violators in the country.[6]

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[5] Statement of David Doniger, Natural Resources Defense Council, Committee on Government Operations, U.S. House of Representatives, July 27, 1989.

The U.S. Department of Justice has maintained a policy that it will not file enforcement actions on behalf of the EPA against any federal facility for violations of environmental laws at those facilities. Current federal policy suggests that the remedy for violations is simple jawboning within the executive branch.

If a compliance agreement between EPA and say, for example, DOE is violated, the only recourse for EPA is to invoke a multiple stage conflict resolution procedure solely within the executive branch. This procedure includes a series of negotiations between EPA and DOE. If the recalcitrant agency does not voluntarily agree to comply, the matter is finally decided by OMB. Overall, EPA has very little leverage over uncooperative federal agencies.[7]

The $150 billion price tag for cleanup at DOE facilities is indicative of one of the costs of noncompliance. For DOD, its financial liabilities may be quite similar. Improved enforcement authorities for a new Department will not only help prevent

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6 Statement by Representative Luken, Hearing before Committee on Energy and Commerce, House of Representatives, March 14 and April 12, 1989, No. 101-27.

7 Statement of Anthony Celebrezze, Ohio Attorney General, Committee on Energy and Commerce, U.S. House of Representatives, March 3, 1988.

future environmental damages, but it will help protect American taxpayers by reducing future cleanup costs.

Last year, the House of Representatives adopted H.R. 1056 to allow EPA to commence enforcement action against any department, agency or instrumentality of the federal government. We would encourage this Committee to include similar language in this legislation. The new Department must be given appropriate tools to combat the pressing problem of noncompliance at federal facilities, if it is to accomplish its mission successfully.

D. Unworkable Biotechnology Regulations

With the powers of genetic engineering and biotechnology, our society is at the precipice of a new era in using man-made biological creations in the environment. Thousands of novel, genetically-altered organisms, which are alive and capable of reproduction, will soon be used in the outdoor environment in a wide range of commercial activities, from pest control in agriculture and forestry to toxic waste cleanup and various applications in the marine environment.

The environmental implications of these emerging technologies are virtually unprecedented in human history. Yet, federal regulatory programs remain unworkable. New legislation for regulating environmental biotechnology, and specifically the environmental release of genetically engineered organisms, is essential before there is widespread commercialization of these new technologies.

The history of biotechnology regulation development is one of EPA being stymied by OMB, the White House and other federal agencies. Today, EPA lacks clear authority and Congressional mandates to assume the lead role in developing an effective regulatory program.

In 1984, EPA circulated a draft biotechnology regulation which was blocked by OMB because it would hurt biotechnology companies which were "unusually sensitive to regulatory costs and delays."[8] A Working Group on Biotechnology was then created, led by the White House Office of Science and Technology Policy. This working group formulated the first proposed Coordinated Framework approach for federal biotechnology regulation, published in December 1984. A year and a half later, the final revision of the Coordinated Framework for the Regulation of Biotechnology was published. This new package of regulations has been widely criticized since it was published.

The present multi-agency Coordinated Framework for the Regulation of Biotechnology is unworkable. Fundamentally, it gives environmental review authority to agencies that do not have environmental protection as part of their agency charter or central mission.

The Framework spans five federal agencies and derives its authority from at least ten different laws, ranging from the Plant Pest Act at the U.S. Department of Agriculture to the Toxic Substances Control Act at EPA. All of the laws used as the basis for the Framework pre-date the arrival of genetic engineering and modern biotechnology.

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[8] Memorandum from Christopher DeMuth, Office of Management and Budget, to Cabinet Council on Economic Affairs, March 12, 1984.

Based on the inter- and intra-agency tug-of-wars we have seen under the auspices of the Coordinated Framework, what we may see over the next few years is a never ending tangle of new definitions, amended definitions, ad-hoc rulemakings, scientific advisory committee meetings, exemption listings and de-listings, and appeals, ad nauseam. This confusion must stop.

The new Department of the Environment must be given a very clear, very competent directive to regulate new environmental uses of biotechnology. We are absolutely convinced that in the long run, both industry's interest and that of public health and safety and environmental protection will be well served by giving EPA the authority to regulate all uses of biotechnology in the environment.

The present regulatory formula is chaotic, unmanageable, and possibly vulnerable to litigation. Therefore, this Committee should begin the process of recommending ways that the new Department could assume the lead federal regulatory authority over all environmental biotechnology.

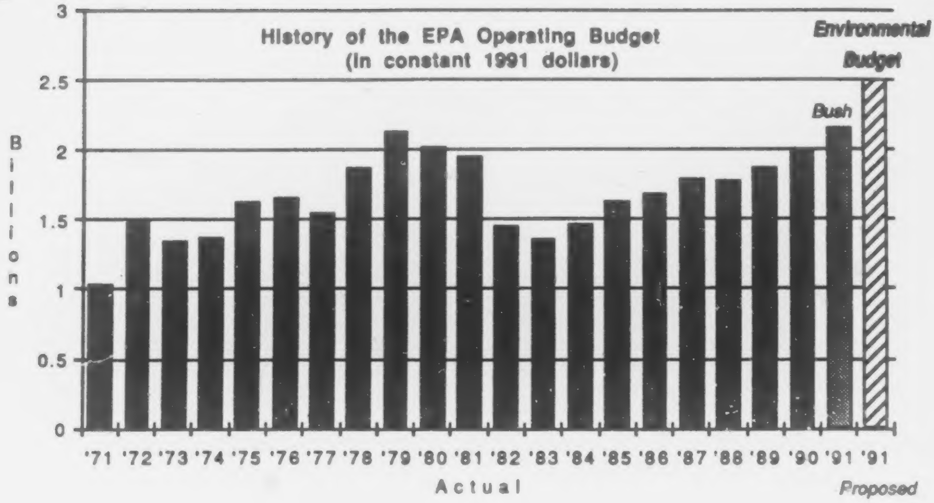
E. International Initiatives

International environmental problems are serious and getting worse. They represent perhaps the greatest single threat -- rivaled only by nuclear war -- to the security and welfare of the United States and all inhabitants of our planet. On an increasing number of environmental issues, needed domestic and international responses overlap.

While the Department of State is and should remain the principal agency through which the U.S. leadership is exerted, EPA's expertise and resources are critical to this nation's ability to move forward, with other nations, in protecting and restoring our planet. On issues such as ozone depletion, increasing degradation of ocean and coastal waters, climate change, Eastern Europe's serious pollution problems, and growing demands on the globe's natural resource base throughout the developing world, EPA has -- and has access to -- expertise that can help find effective solutions.

Special efforts are needed to ensure that EPA's Office of International Activities has an adequate budget and staff, to focus on coordinate with others in and outside of the new Department. The new Department also needs the authority to take a lead role, providing special assistance, for example to the proposed Interagency Committee on Global Environmental Change.

That concludes our prepared remarks. Thank you for the opportunity to present our views.



(In billions of constant 1991 dollars of budget authority, using OMB deflators.)

HISTORY OF THE E.P.A. OPERATING BUDGET
(1971 - 1991)

In billions of nominal and constant 1991 dollars of budget authority (OMB deflators).

Fiscal Year	'71	'72	'73	'74	'75	'76	'77	'78	'79	'80	'81
1991 $	1.037	1.496	1.355	1.378	1.631	1.657	1.550	1.869	2.124	2.029	1.953
Nominal $	0.289	0.448	0.477	0.518	0.704	0.772	0.784	0.999	1.203	1.267	1.351

										Bush	Environmental Budget
Fiscal Year	'82	'83	'84	'85	'86	'87	'88	'89	'90	'91	'91
1991 $	1.464	1.358	1.466	1.629	1.686	1.791	1.788	1.881	1.999	2.152	2.504
Nominal $	1.086	1.049	1.172	1.348	1.426	1.542	1.581	1.745	1.926	2.152	2.504

TESTIMONY OF

NOLAN W. HANCOCK

ON BEHALF OF THE

OIL, CHEMICAL AND ATOMIC WORKERS
INTERNATIONAL UNION

BEFORE THE

SENATE COMMITTEE ON GOVERNMENT AFFAIRS

CONCERNING THE

ELEVATION OF THE ENVIRONMENTAL PROTECTION AGENCY (EPA)
TO THE CABINET-LEVEL DEPARTMENT OF THE ENVIRONMENT

FEBRUARY 7, 1990

My name is Nolan W. Hancock. I am the Citizenship-Legislative Director of the Oil, Chemical and Atomic Workers International Union. Our union represents approximately 110,000 members in the oil, chemical, pharmaceutical, wet milling and atomic industries.

Mr. Chairman, I appear before this committee to support the elevation of the Environmental Protection Agency to full cabinet status.

The fact that a union is here today speaks in support of the role which the EPA currently plays in all of our lives. The protection of our members' health does not end at the plant gate. While OSHA has the role of worker protection inside the plant, we know from experience as a union that workers, their families and the general public are threatened by exposure in the ambient environment.

The current clean air debate is an example of how a law administered by EPA has direct impact on workers. The current Section 112 of the Clean Air Act has not functioned to protect the public health from exposure to toxic air emissions. For the last 18 years, the Agency has struggled to regulate only 8 of these toxic hazards. The Senate Environment and Public Works bill has taken a new approach to tackling these emissions. The Committee has identified 191 of these substances as hazardous and has developed a regulatory regime which will first place technology controls on facilities to control these hazardous air emissions. the second step would call for examining what residual risks exists and imposing further controls if necessary. We support these measures because they will give us real controls which will lessen the exposure of our members who are directly involved in the process work which creates these chemical emissions.

Second, the bill provides for hazard assessments and a Chemical Accident Safety Board which is vital. The frequency of the accidental release of toxic chemicals is often underestimated. The Acute Hazardous Events (AHE) Data Base, put together by EPA, catalogued 11,048 events spanning 8 years.[1] In other words, this partial listing of the chemical incidents in the U.S. provides a record of nearly 4 accidents every day.

According to EPA, these AHE incidents resulted in 309 deaths, more than 11,300 injuries and nearly 500,000 evacuations between 1980 and 1988. For some of these accidents, chemical identity and amount released are available as part of the incident record. Using a quantity/toxicity measure, EPA established that the U.S. has experienced at least 17 chemical accidents rated as having "Bhopal" potential consequences. Fortuitous weather, dispersion patterns and population densities prevented the actual harm from approaching the Bhopal consequences.

The latest accident to affect our union occurred on October 23, 1989, where we suffered a major catastrophe at the Phillips Chemical Complex in Houston, Texas. As a result of a polyethylene reactor #6 having its contents vented to the atmosphere through an open reactor block valve, a vapor cloud of process gas of primarily Iso-butane and ethylene then engulfed the reactor complex and exploded with a force of ten tons of TNT. The resulting shock wave measured between 3.5 to 4.0 on the Richter Scale at Rice University. The human cost was catastrophic. There 22 fatalities and 109 workers were injured. Debris from the explosion was thrown as far as six miles into the community. Portions of the facility fell like rain over residential areas, schools and public highways. The plant was completely destroyed. Replacement costs have been estimated at up to $1 billion.

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[1] U.S. Environmental Protection Agency. Acute Hazardous Events Data Base. Office of Policy Analysis, Office of Policy, Planning and Evaluation. 1988.

These are examples of how the Environmental Protection Agency and environmental laws have direct impact on the workers we represent. The protection of the environment in many instances is the protection of the health of workers and their families.

We support the elevation of the EPA to the cabinet because we recognize the importance that environmental issues have taken on for the United States and the rest of the world. We are witnessing the birth of a global economy in which decisions made in Japan and Europe have direct impact on the quality of life in the United States. Economic decisions and environmental decisions go hand in hand. The problems of pollution are not a country-specific concern but each decision which is made has a direct impact on the health of all workers worldwide. The chemical controls which we place on American domestic industry are good for the health of our workers.

Those controls should be a benefit to those workers in similar industries worldwide and the lack of installation should not be used to gain an unfair trade advantage in global markets. The standards for health should be global in nature for advanced industrial processes. We have witnessed the tragedy of Bhopal, India and the death of 3,000 people because the methodology of production in India was not the same as the methods used by the same manufacturer in the United States.

The elevation to cabinet rank will allow the Secretary of the Environment to deal with peers from other countries on an equal footing. The negotiations on the environment will be difficult enough in this decade without the United States having the handicap of not having personnel of equal standing at the ministerial level.

The creation of a cabinet post is also important in confronting the legacy of environmental damage created by our own government. The production of nuclear weapons has created a problem of lasting environmental damage which will cost billions of dollars to clean-up. This problem may not have been avoided by having a Secretary of the Environment, but having a more equal voice at the table may help to prevent future violations of environmental laws and may facilitate the clean-up of the damage which has already been done. This problem has been recognized by the current Secretary of Energy and significant changes seem to have occurred.

Labor's Concerns About EPA

While the OCAW supports the elevation of the Environmental Protection Agency to a cabinet-level department, we have some very real concerns about the activities of EPA related to worker safety and health.

For the past twenty years, the primary government responsibility for workers' safety and health has rested with the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH). OSHA has been responsible for regulation and enforcement of occupational hazards and NIOSH for research and field studies. EPA's role in the occupational health and safety area has been a secondary one, filling gaps in protection for workers or hazards not covered by OSHA. EPA's primary role has been to address hazards and risks to the public and the environment.

It is becoming increasingly clear, however, that many of the environmental hazards which threaten the public's health are the same hazards which threaten the health of workers on the job. Asbestos, hazardous waste, indoor air pollution and many chemical hazards are shared concerns of the public and workers. For workers, the risks however, are often much greater since the level of exposures, both permitted and actual, far exceed the exposures to the general public.

As the Environmental Protection Agency and the Congress have moved to address a number of environmental concerns, such as preventing chemical accidents and the hazards of indoor air pollution, they have lost site of the fact that these are also major occupational safety and health problems for workers. Proposed clean air and indoor air legislation establish programs and requirements for EPA to address these hazards, ignoring the fact that OSHA and NIOSH have the responsibility to address these hazards in the occupational setting. Increasingly EPA is moving into areas where they neither have the expertise, the orientation or the authority to address the concerns of workers.

The labor movement has concerns that with the elevation of EPA to a cabinet-level department, that these problems related to jurisdiction may become more acute and serious. While we support the elevation of EPA to a cabinet-level department, we believe that Congress must take care to make sure that it is not done at the expense of other vital programs such as OSHA and NIOSH.

In regards to the specifics of S. 2006, let me make several comments as follows:

1. We support provisions which would create a Bureau of Environmental Statistics. The collection of information on the effects of various pollutants on human health and the environment is vital to sound decision making in a regulatory and legislative framework. The Toxic Release Inventory data under Superfund is a sound example of how accurate information can turn a debate completely around. Until the release of the data the chemical industry had

little understanding of the quantity and types of emissions it was releasing into the environment. With the first data base it became clear that the scope of the problem was much larger than anyone ever considered. The air emissions of 2.7 billion pounds a year has created the crafting of a strong toxic air section in the Senate Clean Air Bill.

2. We support the increased concern of the government for global environmental issues. However, we think that further study is necessary to determine the role of an Interagency Committee on global environmental change.
3. We have concerns with the "Commission on Improving Environmental Protection". We would not want this to become a tool to revisit the past concerning the shape and scope of already established law. We believe that debate over change in the statutes should take place in the Congress of the United States.
4. We urge you to support increased funding for the new Department of the Environment. Without adequate funding there will not be adequate environmental protection.

The President has supported the action that both Houses have taken in the introduction of this legislation. The Oil, Chemical and Atomic Workers International Union applauds your efforts and stands ready to work with you to see the swift passage of this important legislation.

TESTIMONY

OF

PAUL R. PORTNEY*

**Vice President and
Senior Fellow**

Resources for the Future

Before the

Committee on Government Operations

United States Senate

February 8, 1990

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*The views expressed herein are those of the author only. Resources for the Future takes no official position on any proposed legislation.

Senator Glenn, Senator Roth, and distinguished members of the Senate Governmental Affairs Committee. Thank you very much for inviting me to appear before you today. My name is Paul R. Portney and I am Vice President and Senior Fellow at Resources for the Future (RFF), an independent, non-profit research and educational organization located here in Washington, D.C. For more than 38 years, RFF has been conducting studies on a wide variety of topics related to natural resources and the environment. However, I am here today not as a representative of RFF but rather on my own to express my strong support for S. 2006, a bill to elevate the Environmental Protection Agency to Cabinet-level status. I will keep both my written and my oral remarks brief; however, I would appreciate your including in the Congressional Record the attached article related to the subject of my testimony today.

My support for S. 2006--which would mandate the creation of a Department of the Environment from the existing EPA--is unreserved. Environmental protection is deserving of the same attention now being given to other important national objectives such as safe and accessible transportation, affordable housing, a quality education, and a sound defense. Bringing EPA into the cabinet will not only add statutory legitimation to environmental concerns in intra-governmental debates and deliberations; it will also help reassure our foreign trading partners and other nations with whom we must negotiate important international environmental agreements that we are serious about the role of environmental protection in our government and our lives.

Moreover, by creating a federal Department of the Environment, I hope we might hasten the day when this Department is empowered by a single, all-embracing "organic" statute rather than the current welter of separate and often conflicting (or at least inconsistent) statutes aimed at air pollution, water pollution and a variety of other individual environmental media and/or problems. This system has made it almost impossible to take the integrated approach to environmental management that is so badly needed in the United States today. I recognize that this is exactly the kind of issue you intend for your proposed Commission on Improving Environmental Protection to address. I support that proposal as well.

Nevertheless, my primary reason for appearing here is to argue as strongly as I can for the creation of an independent Bureau of Environmental Statistics within the new Department of the Environment, like that called for in Section 208 of the proposed legislation we are discussing today. In my view, that may be the most important component of the legislation you have introduced.

As you may know, I feel some sense of parental responsibility for the proposed Bureau. To be sure, others before me had decried the poor condition of environmental data and discussed ways to improve it. But it was about two years ago this month, in several published articles and op-ed pieces, that I first called for the creation of such a Bureau. And it is with a mixture of surprise, delight, and also humility that I have watched the concept begin to take shape and attract support. First, former EPA Administrator Lee M. Thomas set aside resources for, and threw his personal support behind the administrative creation of a statistical center within the EPA. Current EPA Administrator William K. Reilly, with considerable support from Henry Habicht, J. Clarence Davies, and others, has accelerated administrative activity on environmental statistics. Now you, Mr. Chairman, along with your colleagues, have taken the final and most important step: the introduction of legislation that would add the force of law to administrative fiat and breathe real life into an important function.

While referring you to a longer piece I have written on the need for an independent Bureau of Environmental Statistics within the EPA, I want to briefly summarize the reasons why I think the creation of such a bureau is essential.

First, more than ever before environmental problems are coming to be seen as being of equal importance with economic concerns. Yet data concerning the environment have only been collected systematically over the last ten years or so (and only for some dimensions, at that), as compared to more than fifty years worth of comprehensive data for some economic series. The gathering of environmental data has been haphazard at best. The various environmental monitoring programs that do exist are often inadequate. Even though the monitoring and reporting of air quality data is now the clear high spot of environmental statistics, there is no national program that monitors all the toxic air pollutants and at least some of the data on air pollutants that are monitored are insufficient. Moreover, data gathered on the environment are not subject to the same quality control, careful measurement protocols, or subsequent thorough analyses to which data on the economy are. It is impossible to imagine modern government operating in the absence of reliable measures of economic activity. It seems, unlikely, therefore, that government can legislate wisely in the absence of equally reliable measures of environmental quality. A Bureau of Environmental Statistics like the one you propose will provide much needed information about the environment by coordinating data collection activities and by taking on primary responsibility for ensuring that the quality of the data collected is high.

Second, there exists no one organization that gathers all U.S. environmental data and presents it in one annual report. Not only is there a lack of data concerning the environment, but the data that do exist are not at all accessible to interested parties. One reason for this poor state of affairs is the diffusion of effort among many federal agencies, including the Environmental Protection Agency, the U.S. Geologic Survey in the Department of the Interior, the Forest Service in the Department of Agriculture, the National Oceanic and Atmospheric Administration in the Department of Commerce, and the National Aeronautics and Space Administration. Supposing that this far-flung network of data collectors were well-funded and operating smoothly (which they are not), it would still be necessary to gather together the relevant measures of environmental quality and disseminate the most important among them in a single, timely, accessible source such as an annual report on the order of the *Economic Report of the President,* prepared every year by the Council of Economic Advisers. The Bureau of Environmental Statistics could perform this function of data collection, coordination, and dissemination and would do so under your proposal.

Third, in the absence of comprehensive environmental data, reliably and regularly gathered and reported, it is very difficult to evaluate the success or failure of past environmental programs and to address potential environmental problems in the future. Each year the United States spends about $90 billion dollars to comply with federal environmental regulations. If we are willing to spend this much money to protect our environment, we ought to take care about whether the programs we establish make it better. Creation of an environmental data collection and reporting system would make serious program evaluation a possibility; it would also make it easier to separate serious from less serious environmental problems and would provide information needed to tailor programs to effectively address these problems.

Fourth, there already exist models in the U.S. government for the proposed Bureau of Environmental Statistics. For more than a half century, the Bureau of Labor Statistics in the Department of Labor has collected and published data about current rates of unemployment, labor force participation, layoffs, and related matters. The Bureau of Economic Analysis in the Department of Commerce has performed a similar function for data on foreign trade since 1921, national income since 1942, and other economic measures. And the Bureau of the Census, also a part of Commerce, has been responsible for our decennial population count since 1902, although the census itself goes back to 1790. All three bureaus were created in part to ensure the independent and nonpartisan treatment of data and measures that might be politically sensitive. Certainly there is a need for such independence and nonpartisanship in the gathering and reporting of environmental data and measures. The creation of a Bureau of Environmental Statistics would go a long way toward preventing environmental data from being misreported.

If I might, I would like to add one caution about the kinds of information the Bureau of Environmental Statistics would be required to report under the legislation you have introduced. In addition to data on ambient environmental quality and trends, S. 2006 directs the Bureau to report annually on ". . .the health of humans and non-human ecosystems" (§208(c)(2)) and also ". . .economic information on the current and projected costs and benefits of environmental protection" (§208(c)(4)). While reliable information on human and ecosystem health concerns, as well as on economic effects, is absolutely essential to sound environmental policymaking, it is important to recognize the imprecision with which they can be measured. This is particularly true in comparison, say, with the average hourly ambient concentration of ozone in a specific location during a particular time period. To put it differently, the latter is a more mechanical--and, therefore, much easier--task than determining how human health or the biological integrity of an aquatic ecosystem will change if ozone levels fall. Similarly, although my colleagues at Resources for the Future and environmental economists elsewhere have made excellent progress over the last twenty years in estimating the costs and benefits associated with environmental regulation, it is still a less precise undertaking than many of us would like. And it is definitely a far cry from measuring, say, the fecal coliform bacteria count in a sample drawn from a particular water body, something that can be done with considerably more precision.

I bring this up for one reason alone. I would hate to see the Bureau of Environmental Statistics--which could do so very much to improve the collection, analysis, and timely dissemination of information about ambient environmental quality--founder over controversies concerning the health or economic impacts of a specific regulatory intervention. So long as you and other congressional proponents of the Bureau of Environmental Statistics recognize the very real qualitative differences between scientific measurement of physical samples on the one hand and predictions of health or economic impacts on the other, and judge the Bureau's performance accordingly, this won't be a problem. But the distinction is a critical one to bear in mind.

To summarize, then, I enthusiastically support S. 2006 in its entirety and applaud you and your colleagues for introducing it. It is especially important that the Bureau of Environmental Statistics called for in the bill become a reality. Such a Bureau can ensure that our fellow citizens will be better informed about both the quality of their environment and the role that public policies are playing in improving it. Twenty years from now, I believe, people will be reading the Bureau's Annual Reports and asking why it took until 1991 to begin producing them. Let us hope we have a first report in 1991! You have taken a critical step in that direction and I stand ready to help however I can.

Thank you again for allowing me to appear here. I would be more than happy to answer any questions you might have for me.

From Resources, the quarterly publication of Resources for the Future, an independent, nonprofit research organization in Washington, DC, that specializes in natural resources and the environment (Winter, 1988).

Needed: a Bureau of Environmental Statistics

Paul R. Portney

> The government is very keen on amassing statistics. They collect them, add them, raise them to the nth power, take the cube root and prepare wonderful diagrams. But you must never forget that every one of these figures comes in the first instance from the village watchman, who just puts down what he damn well pleases.
>
> —Sir Josiah Stamp (1880–1941)

No doubt true, Mr. Stamp, but this nation's problems with the collection, analysis, and dissemination of environmental data go far beyond those created by the whims of village watchmen. Buffeted by budget cuts, policy redirections, and congressional and administrative indifference, our understanding of environmental conditions and trends is at, or near, an all-time low. Strong measures are needed to address this situation. One such action should be the creation of a Bureau of Environmental Statistics.

There are attractive models for the new office I propose. For more than a half century now, the Bureau of Labor Statistics in the Department of Labor has collected and published data about current rates of unemployment, labor force participation, layoffs, and related matters. The Bureau of Economic Analysis in the Department of Commerce has performed a similar function for data on foreign trade (since 1921), GNP growth (since 1942), and other economic measures. And the Bureau of the Census, also a part of Commerce, has been responsible for our decennial population count since 1902. All three bureaus were created in part to ensure the independent and nonpartisan treatment of data and measures that might be politically sensitive.

By most accounts, these bureaus have been very successful undertakings. While there have been occasional cries that population, unemployment, inflation, or GNP growth statistics have been "cooked" to suit political purposes, such charges are rare exceptions. Furthermore, when proposals surface for changing the way population, national income, or unemployment or inflation rates are measured, they are scrutinized and discussed openly.

While no one would argue that our current measures of population or economic activity are exact, it is impossible to imagine modern government operating in their absence. Indeed, these measures drive important federal grant and entitlement programs; they also help trigger, and then measure the success of, major tax and spending programs, monetary policies, and even foreign policy decisions related to economics, defense, immigration, and other issues.

An environmental analogue

It is time, for many reasons, to establish a Bureau of Environmental Statistics that will give the United States much-needed measurement capability in this field. Simply put, we have not a *single* data series for the environment that goes back as far as even the most recently established of the economic and demographic series listed above, nor one that is subject to the same quality control, careful measurement protocols, or subsequent thorough analyses.

Consider, for example, the beacon light of U.S. environmental monitoring programs—our national program to collect and analyze air pollution data. To begin with, even for the so-called criteria air pollutants (ubiquitous pollutants for which the Environmental Protection Agency [EPA] sets national standards), the nationwide monitoring program is inadequate in several ways.

For instance, such data as do exist on airborne concentrations of lead—a serious threat to health—come from a "network" of only fifty-three monitoring stations intended to represent the whole country. Similarly, despite cries that ambient ozone levels be reduced, in part to alleviate agricultural crop losses, virtually no monitoring is carried out for ozone in rural areas. Instead, we "interpolate" (guess at) rural ozone levels by taking weighted averages of urban readings often obtained hundreds of miles away. And as for the national program that monitors all the toxic air pollutants causing widespread concern? It doesn't exist.

The situation is even bleaker for water quality monitoring and for measurements of pesticides and other substances in soil, on foodstuffs, and in fish, bird, and other animal populations. The same is true for data on the levels of toxic substances in human body tissues, for which a small monitoring program was just eliminated, and for measurements related to wetlands and a host of other sensitive ecosystems.

In short, we are woefully ignorant of the current state of our environment, of how that state compares with the past, and of the role that current policies may have played in accounting for the differences between past and present. To make matters worse, the data that do exist are not at all accessible to interested parties.

Present problems

One reason for this poor state of affairs is the diffusion of effort among many federal agencies. At present, important environmental data are collected by the Environmental Protection Agency, the Geological Survey (in the Department of the Interior), the Forest Service (Department of Agriculture), the National Oceanic and Atmospheric Administration (Department of Commerce), the Departments of Defense, Energy, and Health and Human Services, and even the National Aeronautics and Space Administration, which has been responsible for recent measurements of stratospheric ozone depletion.

Even if this far-flung network of data collectors were well-funded and operating smoothly, it would still be necessary to gather the relevant measures and disseminate the most important among them in a single, accessible source. An excellent model is the annual *Economic Report of the President*, prepared by the Council of Economic Advisers (CEA). To prepare the report, economic data from many federal agencies are compiled, and findings are presented in about one hundred tables, many of which show annual statistics going back to 1929. Despite quibbles about the appropriateness of certain series or about changes in measurement techniques from one year to the next, the CEA report makes it possible to assess a number of important economic measures. In so doing, it provides a benchmark against which to measure the consequences of past policies and to anticipate the effects of new ones.

Before its gradual evisceration over the past seven years, the president's Council on Environmental Quality (CEQ) would have been the logical candidate for the compilation and dissemination of environmental data. In fact, CEQ is directed to perform this function by the National Environmental Policy Act of 1969. While CEQ used to take this responsibility more seriously, even in its halcyon days it never mustered the resources to present truly comprehensive and consistent environmental data on an annual basis. Recently the Conservation Foundation has stepped bravely into the breach and attempted to provide regular data on environmental trends. But this responsibility is clearly a federal, not a private, matter.

Unfortunately, current problems with environmental measurement go far beyond the lack of a coordinating body. First, it is probable that too little is spent in the aggregate on environmental measurement and analyses. It is difficult to be more definitive because no recent effort has been made to tally such spending. A 1978 CEQ report put total spending for air and water quality monitoring at more than $300 million per year, which I believe is implausibly high. Even if correct, however, it is not large in comparison with the $70 billion to $90 billion the United States spends each year to comply with federal, state, and local environmental regulations. If we are willing to spend this much money to protect our environment, we ought to care about whether the programs we establish make it better.

Even when adequate monies are appropriated for data collection and analysis, they often get short shrift during the fiscal year. There are two reasons for this. First, money for environmental monitoring is seldom earmarked as such; rather, it is typically part of a more general allotment for specific regulatory programs like air quality, groundwater, or hazardous waste. When Congress then gives these programs unexpected new regulatory or other responsibilities, the money needed to carry them out is invariably withdrawn from data collection and analysis.

Such a withdrawal would be unlikely if data collection and analysis had any political sex appeal. But they do not. *No* senator could reap credit for battling to increase the number of rural ozone monitors in the United States. Similarly, no congressman could benefit much from jump-starting the moribund water quality monitoring program at EPA, even though such a program is badly needed to help determine whether the hundreds of billions of dollars spent on sewage treatment plants and industrial water pollution controls are having the desired effects.

Addressing the problems

While no panacea, a Bureau of Environmental Statistics—with a separate line in the federal budget—would be much more immune to budgetary triage than are present programs. Such a bureau might even attract congressional champions who are currently unwilling to fight for separate appropriations for environmental data analysis in a handful of programs scattered around a dozen different agencies.

The creation of a strong Bureau of Environmental Statistics might also lessen the temptation to "fudge" environmental data. Although it may seem hard to believe, billion-dollar regulatory decisions can now hang on readings at a few pollution monitors. Consider, for instance, the difference it makes to a metropolitan area to be considered an "attainment" area—a region where national air quality standards are being met—rather than a "nonattainment" area under the 1970 amendments to the Clean Air Act. The deadline for meeting the standards of ous threat to health—come from a "network" of only fifty-three monitoring stations intended to represent the whole country. Similarly, despite cries that ambient ozone levels be reduced, in part to alleviate agricultural crop losses, virtually no monitoring is carried out for ozone in rural areas. Instead, we "interpolate" (guess at) rural ozone levels by taking weighted averages of urban readings often obtained hundreds of miles away. And as for the national program that monitors all the toxic air pollutants causing widespread concern? It doesn't exist.

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The latter strategy makes more sense, particularly in the early years of the organization. While the bureau might eventually be vested with some data collection responsibilities—perhaps for gathering data not now collected by any other group—it would have its hands full in its start-up years with these functions:

- identifying a comprehensive and standardized set of environmental quality measures on which to report, including traditional indices of air and water quality as well as measures of wetland acreage, stratospheric ozone concentrations, and groundwater pollution;
- determining where, when, and how these measurements are to be taken;
- establishing quality assurance procedures for each data series and ensuring timely reporting by the collecting agencies to the bureau; and
- reporting this information to the public frequently, by way of annual reports and other appropriate means of communication.

A final matter to be resolved is whether the bureau should concern itself only with monitoring environmental quality or whether it should also become involved in what is known as compliance monitoring. In contrast to monitoring ambient air levels of pollution, the latter responsibility would involve the measurement or estimation of pollution emissions by cars, power plants, factories, wood stoves, sewage treatment plants, feedlots, and the multiplicity of other *sources* of pollution. Here again, the more narrow objective seems appropriate, for two reasons. First, taking responsibility for the development and coordination of a comprehensive ambient monitoring system is ambitious enough without the mission's being expanded even further. Second, compliance monitoring cannot be separated from the enforcement of our environmental laws, and the proposed bureau is not intended to be a cop.

Is the timing right?

There is some reason to believe that a proposal to create a Bureau of Environmental Statistics would not fall on deaf ears. First, Congressman James H. Scheuer (D-N.Y.) has on several occasions introduced an "Environmental Monitoring Improvement Act" to create a temporary national commission that would investigate this country's efforts to collect and publish environmental information and report on ways that these efforts might be improved. His initiatives deserve more serious consideration than they have received. They might be given more notice if his idea for a temporary commission were replaced with the proposal of an independent and permanent Bureau of Environmental Statistics.

There are other indications that the time may be right for the creation of such a bureau. First, a new president will be elected in less than a year, and both parties will have something to gain from espousing the establishment of this entity. For their part, Republicans have consistently and justifiably decried the lack of data on which to base major environmental or natural resource policy decisions. They rightfully claim that debate on a number of pending issues, such as acid rain, groundwater pollution, and stratospheric ozone depletion, suffers from a lack of adequate data. But Republicans have been singularly unwilling to *remedy* this situation by spending money to fill the information void. If they wish to be seen as credible participants in environmental debates rather than as obstructionists whose excuse is a lack of data, they have to be willing to back up their concerns with new programs to help solve the problem.

Democrats, too, have much to gain from the creation of this bureau. They are often portrayed as being too quick to legislate in the absence of hard evidence of an environmental problem. No data collection system—however complete—will ever be able to "prove" definitively that action is required. But such a system would make it easier to separate serious from less serious problems and would provide details to help tailor programs that effectively address the problems.

Make no mistake about it: any proposal entailing new federal spending will—and should—have hard sledding in future congressional debates. Nevertheless, there is growing support for spending federal money to set up a body such as this bureau. The public cares greatly about the quality of the environment and the condition of the natural resource base. A great deal of money is spent each year because of these concerns. Yet there is no comprehensive and reliable system for collecting, analyzing, and disseminating information about how these expenditures are linked to environmental quality.

This state of affairs makes little sense, and it is hard to see how one could think otherwise. The creation of a Bureau of Environmental Statistics, preferably within the EPA, would not remedy this situation overnight. But it would be a sensible and politically feasible step in the right direction. ■

Paul R. Portney is a senior fellow and director of the Center for Risk Management at RFF.

United States General Accounting Office

GAO

Testimony

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Creation of a Department of the Environment (S. 2006)

Statement of
J. Dexter Peach, Assistant Comptroller General
Resources, Community, and Economic Development
Division

Before the Committee on Governmental Affairs
United States Senate

GAO Form 160 (12/87)

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to appear here today to present our views on the creation of a Department of the Environment and on Senate Bill 2006. Accompanying me is Richard L. Hembra, Director for Environmental Protection Issues, U.S. General Accounting Office (GAO).

Conferring Cabinet status on the Environmental Protection Agency (EPA) not only symbolizes the growing importance of the agency. It is also an action that should, in the long term, position the agency to address more effectively the complex environmental challenges this nation will face in coming years.

Since EPA was created in 1970, the nation's understanding of environmental problems has grown enormously, and with it, EPA's responsibilities. Today, EPA's mission, size, and scope of responsibilities place it on a par with many Cabinet departments. From my own involvement in GAO's work at the Departments of Energy, Interior, Agriculture and Transportation, I am very aware of the interplay between environmental issues and the programs of these departments.

Elevating EPA to Cabinet status should help ensure that environmental policy is given appropriate weight in relation to domestic and foreign policies that are carried out by other

Cabinet departments. Conferring Cabinet status on EPA would also help its head deal effectively as an equal with counterparts in the federal government as well as in the international community. Finally, establishing the head of EPA as a Cabinet member would, from a long-term institutional standpoint, make clear the organization's direct access to the President on environmental matters.

The remainder of my statement expands on these points and presents our views on:

-- the growth of EPA and of environmental issues;

-- the relationship of environmental protection to other Cabinet departments and policies;

-- other criteria by which to assess the elevation of EPA; and

-- organizational and management issues identified in our past work which are reflected in the proposed legislation before the Committee.

GROWTH OF EPA AND ENVIRONMENTAL ISSUES

It is important to understand how different the EPA of 1990 is from the EPA of 1970. Today, the agency administers nearly a dozen major environmental statutes. Most of these statutes had not yet been enacted when EPA was created--even those that were on the books, such as the Clean Water Act, were completely revamped in the 1970s. From its first-year expenditures of $384 million, EPA's annual outlays have risen to over $5 billion. And as a percentage of total federal outlays, EPA's share has more than doubled since 1970.

Of even greater significance than federal outlays, however, is the effect of EPA's programs on our national economy. Environmental cleanup has cost the nation well over $700 billion thus far. We now spend over $86 billion a year, or about 2 percent of our GNP, on pollution control and regulation. In fact, a whole new sector of the economy has grown around pollution control. In the early 1970s, federal programs controlled the most visible types of pollutants--what comes out of smokestacks or goes into sewers. Since then, the federal government has assumed responsibility for regulating the less visible, but more pervasive, aspects of pollution: the toxic chemicals manufactured, the methods and location of hazardous waste disposal, and the cleanup of chemically contaminated lands and water.

In the future, the federal role in environmental protection is likely to grow even larger, especially as environmental problems become increasingly international. While we have improved our air and water quality in some respects, these problems continue to dog us. The cleanup of hazardous waste sites is clearly going to continue well into the next century, as are efforts to reregister pesticides. And even as we move to try to get a handle on old problems, we discover new ones, like global warming, toxic air pollutants, and indoor air pollution. Moreover, the solutions to some of these problems--like global warming and the depletion of the stratospheric ozone layer--will require a degree of international cooperation that may be unprecedented. To sum up, the number, scope, and persistence of environmental problems are strong arguments in favor of Cabinet status for environmental issues.

RELATIONSHIP OF ENVIRONMENTAL PROTECTION TO OTHER DEPARTMENTS AND POLICIES

As our awareness of environmental problems has increased, and as EPA's role has expanded, environmental policy has steadily come to play a critical role in shaping other domestic and foreign policies. The President's proposed amendments to the Clean Air Act, for example, calling for a switch to cleaner fuels and cleaner coal-burning technologies, are directly linked to the nation's energy policies. The United States' participation in the international agreement to phase out the production of chlorofluorocarbons (CFCs) shows how our environmental policy has been integrated into our trade and foreign policies. As we begin to address global climate change, we will have to examine a host of policies, including energy, agriculture, overseas assistance, foreign trade, and national security, among others.

Because EPA is the federal organization responsible for identifying and representing environmental interests before the rest of the government, EPA interacts regularly with the Departments of Agriculture, Defense, Energy, Interior, State, Transportation, and so on. Compared to many of these departments, EPA's interests and responsibilities are equally wide-ranging. Furthermore, its expenditures are about the same as the Department of the Interior's; are larger than both the State and Energy Departments' (excluding DOE's atomic energy defense activities), and are twice those of the Commerce Department.

Moreover, as demonstrated by numerous GAO reviews, other federal agencies do not always provide the support and cooperation necessary to further environmental policy goals. Instead, roadblocks are often created by jurisdictional conflicts, organizational structures, and cultures that are not conducive to cooperation with EPA or that place a low priority on environmental protection. In some cases, the outcome of these problems has been serious. We see, for example, that years of ignoring environmental consequences at Defense and Energy Department facilities have jeopardized the health of neighboring communities and are likely to cost the federal government tens of billions of dollars to correct. The President's proposed budget for next year suggests that cleaning up federal facilities may ultimately cost taxpayers between $140 and $200 billion. It is therefore important that the United States have an organization at the federal level that is designed to ensure that, as far as possible, agencies will consider and actively support national environmental policy goals as they make decisions about programs for which they are responsible.

In this regard, we believe that the creation of an Interagency Committee on Global Environmental Change, as called for in S. 2006, should provide a much needed mechanism for coordinating national policies on some of the most important environmental issues confronting us today. We recently reported that the Administration does not have a coordinated national policy on global climate change, nor has it tasked any agency to provide overall direction.[1] Even agencies that might have served this coordinating function--including the Office of Science and Technology Policy and the Council on Environmental Quality--have not been very effective.

OTHER ASSESSMENT CRITERIA

In recent years, when other agencies have been proposed for Cabinet status, concerns have been expressed that increasing the number of Cabinet members reporting to the President would make the Cabinet more cumbersome and less useful. While these concerns are not without merit, we believe that they are overshadowed by the importance of environmental issues, the significant impact of environmental decisions on our economy, the interrelationship of environmental issues and other national issues--most of which are represented by agencies with Cabinet status--and the emerging international importance of environmental issues.

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[1] Global Warming: Administration Approach Cautious Pending Validation of Threat (GAO/NSIAD-90-63, Jan. 8, 1990).

Furthermore, when consideration was being given to creating a Department of Veterans Affairs in the last Congress, the National Academy of Public Administration (NAPA) developed criteria for evaluating proposals for Cabinet agencies. These included improving program visibility to achieve a broad national goal; facilitating the achievement of cross-cutting national policy goals; and improving the agency's oversight and accountability. In an analysis we conducted at the request of the Chairman of the House Government Operations Committee, we found that the proposal to elevate EPA to Cabinet status met many of these NAPA-suggested criteria. As you will note in the attached analysis, we believe that a Cabinet department for the environment would, among other things, support a broad national goal that affects all segments of society, and its structure would allow consolidation of functions now located in other executive branch agencies.

Although we have not analyzed the costs associated with implementing the provisions of S. 2006, the Congressional Budget

Office has calculated that the costs of simply converting EPA to a department would be relatively minimal. The bill now under consideration contains additional features that could add to the Department's costs--specifically, the Bureau of Environmental Statistics and the Commission on Improving Environmental Protection. We believe, however, that in light of some long-standing concerns, which I will discuss in a moment, such costs could, in the long run, more than pay for themselves.

ORGANIZATION AND MANAGEMENT ISSUES

From our reviews of individual programs at EPA, as well as a general management review of the agency we conducted in 1988,[2] we believe that several problems would remain to be addressed even if EPA were elevated to Cabinet status. Among other things, the agency needs better means for measuring the effectiveness of its programs, better financial and other management information systems, and better internal controls, as well as an organizational structure that is better able to reflect what are considered to be the most important environmental problems.

We are therefore pleased to see that S. 2006 would establish a Bureau of Environmental Statistics within the Department of the

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[2] Environmental Protection Agency: Protecting Human Health and the Environment through Improved Management (GAO/RCED-88-101, Aug. 16, 1988).

Environment, as well as a commission to study organizational and jurisdictional issues. Both throughout the agency and within specific programs, EPA does not have a base of information that would allow it to assess the effectiveness of its programs in improving or protecting environmental quality. Developing a reliable set of environmental indicators, which would allow EPA to judge the nation's progress in meeting environmental goals, should be one of the new Bureau's top priorities.

We have also, in the course of our work, raised questions about an appropriate structure for EPA and about the need for a unified environmental statute that might eliminate some of the conflicts and inconsistencies among the many environmental statutes for which EPA is responsible. A commission to study these issues could provide an important public service in its answers to these questions.

Several other features of S. 2006 also deserve mention. Based on our reviews of EPA's financial and information resource management systems, we strongly endorse the designation of a Chief Financial Officer and a Chief Information Resources Officer for the new Department, with duties as laid out in the bill. As you are well aware, GAO is deeply concerned about federal agencies' vulnerabilities to fraud, waste and abuse, and weaknesses in agencies' internal controls. By defining high-level positions with specific responsibilities for two key internal control systems, the bill sends a strong message about their importance to the sound management of the new Department.

CONCLUSION

In summary, Mr. Chairman, elevating EPA is an affirmation of the prominence and permanence of the federal role in environmental protection. With the proposed additions that I have commented on in my statement, a Department of the Environment could ultimately provide the United States with a far more effective organization for addressing the difficult environmental agenda that awaits us in the years ahead.

Mr. Chairman, this concludes my prepared statement. Mr. Hembra and I would be pleased to respond to any questions.

INFORMATION ON ELEVATING EPA TO CABINET STATUS BASED ON NAPA CRITERIA

The following criteria, expressed as 14 questions within five general categories, are taken directly from the National Academy of Public Administration's (NAPA) Evaluation of Proposals to Establish a Department of Veterans Affairs, published in March 1988. In developing our responses, we have attempted to adhere closely to the meaning apparently inferred by the NAPA evaluation panel.

I. Establishing a National Priority for the Agency's Programs

Question: Does the agency or set of programs serve a broad national goal or purpose not exclusively identified with a single class, occupation, discipline, region or sector of society?

Response: We believe that a Department of Environmental Protection meets this criterion. As much as any other Cabinet-level issue, environmental protection affects all Americans--from urban dwellers who experience air pollution to rural residents whose drinking water may be affected by runoff from pesticides and fertilizers. All levels of government are involved in environmental regulation, and they join business and industry as subjects of environmental regulation. In addition, the benefits of environmental regulation are derived by all citizens.

Question: Is there evidence that there is a significant need that is not now adequately recognized or addressed by EPA, the President, or the Congress which would be better assessed or met by elevating the agency to a Cabinet department?

Response: This question focuses on the ability of the agency to obtain necessary resources for its programs. Looking at environmental programs, it seems to us unlikely that outlays will be significantly changed by Cabinet status. The appropriate level of funding for environmental activities has been a concern to both the Administration and the Congress for the past decade, as both environmental problems and the budget deficit have grown. The question concerning what level of resources to devote to environmental programs will undoubtedly persist in the years ahead, whether these programs are housed in an independent agency or a Cabinet department.

Question: Is there evidence of impending changes in needs or circumstances which would be better addressed if EPA were made a Cabinet department? Are such changes expected to continue in the future?

Response: In our view, a Cabinet department would be an appropriate acknowledgment that environmental problems have become long-term, increasingly complex, and also increasingly international in scope. As noted in our testimony to the subcommittee, the federal role in environmental protection, which has expanded greatly in the last two decades, is likely to grow even larger in the future. Old problems of air and water pollution persist. Cleanup of hazardous waste sites is now recognized as a long-term problem. At the same time, our nation is discovering and beginning to deal with the more subtle but pervasive problems of toxic air pollution, indoor air pollution, and others. Some of these newly-recognized problems, like global warming and stratospheric ozone depletion, will require a degree of international cooperation that could be well-served by a Cabinet department.

Question: Would a Cabinet department increase the visibility and thereby substantially strengthen the active political and public support for EPA programs?

Response: EPA's creation in 1970 reflected the widespread concern for environmental protection. Since that time opinion polls have consistently demonstrated that environmental concerns, from the public's perspective, remain a top national issue. Political support for environmental issues, however, has not always been viewed as mirroring public support. This was especially true during the early 1980's when the Administration placed less emphasis on environmental issues and political problems plagued EPA.

We see conferring Cabinet status on EPA as enhancing existing support for environmental issues from two perspectives. EPA's elevation would be an important symbolic gesture, signalling that the Administration recognizes the longstanding public support for environmental protection. From a political standpoint, the action would ensure that EPA is present to represent environmental issues during the development of national and international policies.

Question: Is there evidence that becoming a Cabinet department would provide better analysis, expression and advocacy of the needs and programs which constitute the agency's responsibilities?

Response: In our view, environmental issues deserve the attention of the President. Also, from a long-term institutional standpoint, the environmental protection organization should have regular access to the President. As the NAPA panel noted, a

Cabinet department secretary often has better personal access to the President and senior White House staff than the administrator of an independent agency.

We recognize that Cabinet standing is no guarantee of presidential interest, and conversely, that independent agency status is not automatically accompanied by indifference on the President's part. However, as discussed later, environmental issues play a critical role in our national and international policy decisions. Placing EPA on equal footing with the departments responsible for developing those policies would help ensure, over the long-term, the integration of environmental protection with such policies.

II. Improving Program Effectiveness

Question: Is there evidence that elevation to a Cabinet department would improve the effectiveness of EPA's delivery of services?

Response: Because EPA does not provide services, this question does not directly apply. However, if one interprets the question to mean the effectiveness of EPA programs in general, we would conclude that elevation to Cabinet status is unlikely, by itself, to bring improvements. As we pointed out during our testimony, our general management review and other reviews of EPA revealed a number of weaknesses in the agency's management, such as: the absence of linkages between its planning and budgeting functions, its use of activities rather than outcomes as measures of program effectiveness, and the lack of good financial management and information systems, among others. Resolution of these types of weaknesses reflect management commitment and leadership, not organizational placement.

Question: Is a Cabinet department required to better coordinate or consolidate programs and functions which are now scattered throughout other agencies in the executive branch of government?

Response: Although current proposals do not call for moving the functions of any agency other than EPA to a Department of Environmental Protection, its creation would nevertheless provide the framework and thereby facilitate the consolidation of other environmental programs, if warranted. It has been suggested, for example, that the National Atmospheric and Oceanic Administration (NOAA) and other environmental research organizations be included in a Department of Environmental Protection.

III. Improving Program Efficiency

Question: Is there evidence that a Cabinet department with its increase in the centralized political authority of the Secretary's office would result in a more effective balance within the agency between integrated central strategic planning and resource allocation, and the direct participation in management decisions by the line officers who are responsible for directing and managing service delivery? Would the staff officer-line officer interaction be improved?

and

Question: Is there evidence of significant structural, management, or operational weaknesses within the agency that could be more easily corrected by elevation to a Cabinet department?

Response: As noted earlier in our assessment, the management weaknesses within EPA that we have observed are not likely to be affected by a change in its status; these problems will need to be addressed whether EPA is elevated or remains an independent agency. We found, for example, that the budgeting process at EPA is driving planning rather than the other way around. The result is that resources are focused on traditional program activities rather than on what are defined as priorities. Both GAO and EPA have found problems in the agency's financial management systems, and we have both noted difficulties in creating and retaining a skilled workforce at EPA. We also found that EPA needs to develop more effective working relationships with state and local governments, who are to a great extent responsible for carrying out federal environmental programs. Better internal controls are needed, particularly in the area of contracting, which now takes up about a third of EPA's budget. With effective leadership, these and other management problems can be addressed either by the existing agency or a Department of Environmental Protection.

Question: Is there evidence that there are external barriers and impediments to timely decision making and executive action that could be detrimental to improving the efficiency of [EPA] programs? And would these impediments be removed or mitigated by elevation to a Cabinet department?

Response: In our view, the most apparent external barrier faced by EPA is the variety of legislation from which EPA derives its statutory authority. Because EPA was created under an Executive Reorganization Plan, it does not have an overarching legislative mission. Instead, its statutory responsibilities are set forth in roughly a dozen pieces of legislation. As we pointed out in our EPA management review, each of these statutes contains divergent regulatory philosophies and standards. Such diversity complicates agency management and adoption of an integrated cross-media environmental approach. As a result, the agency has less flexibility in setting priorities based on its assessment of the risks presented by various environmental problems.

We recognize that, by itself, elevation to a Cabinet department would not resolve EPA's difficulties. But, if Cabinet status were accompanied by an organic piece of legislation, it might make it easier for EPA to set priorities and allocate resources in response to its evolving understanding of environmental problems.

Question: Would elevation to a Cabinet department help recruit and retain better qualified leadership within the agency?

Response: Cabinet status in our opinion would improve EPA's ability to recruit, but only to a marginal degree. We have reported that EPA has had problems in retaining its Superfund workforce, and like other federal agencies, can probably expect increased difficulties in competing for skilled personnel in the future. In 1987, we noted that one-third of the Superfund program staff we surveyed planned to look for other jobs the following year. To the extent that staff turnover is a function of a perceived lack of commitment to the agency--as may have been the case in the early 1980s--then elevation of EPA to Cabinet status may be an important signal that staff efforts are important and valued.

However, you should be aware that we have found pay to be a major factor in retaining a skilled Superfund workforce. EPA must compete for staff with a growing private sector that is able to offer considerably higher salaries. Superfund staff that left EPA in 1985-86 for jobs with private industry received, on average, about $7,000 a year more than they were earning at EPA.

Looking at high-level positions, we would share the NAPA panel's observation that Secretary and Assistant Secretary positions are customarily more attractive to senior executives than non-Cabinet officers. Here too, however, executive pay levels may be a deterrent regardless of Cabinet status.

IV. Improving Federal Policy Integration

Question: Is there evidence that a Cabinet department would facilitate more uniform achievement of broad, cross-cutting national policy goals?

Response: We believe that a Cabinet department would more effectively integrate environmental policy into a broad array of related domestic and international policies. In the President's recent proposal to amend the Clean Air Act, in the United States' negotiations to phase out CFC production, and in a variety of other ways, it has become evident that environmental policy plays a critical role in our energy, transportation, trade, and foreign assistance policies, among others. Having equal status with the departments responsible for carrying out these other policies would place EPA on an equal footing and allow it to more easily represent environmental interests before the rest of the federal government.

As we noted in our testimony, it is also important to have a vehicle for environmental cooperation to ensure that other federal agencies, insofar as possible, will take national environmental policy goals into account as they make decisions about their programs. In numerous reviews, we have found instances where this has not been the case, sometimes with serious effects. Years of ignoring environmental consequences at Defense and Energy Department installations, for example, have jeopardized the health of neighboring communities and are likely to cost the federal government tens of billions of dollars to correct.

Question: Would EPA's elevation to a Cabinet department weaken or strengthen the Cabinet and the Executive Office of the President as policy and management aids to the President?

Response: Although we have not evaluated this issue, the NAPA panel did draw conclusions. In evaluating the veterans affairs proposal, the panel noted that while an increased number of Cabinet departments dilutes the usefulness of the Cabinet as an advisory body, the addition of one department would have little if any effect on the operations of the Executive Office of the President and would not be reason enough to reject a proposal for Cabinet status.

V. Improving Accountability to Elected Public Officials

Question: Would the elevation to a Cabinet department have a beneficial or detrimental effect on the oversight and accountability of the agency to the President and the Congress?

Response: In our view, oversight and accountability would be unaffected by EPA's elevation to a Cabinet department. Although EPA is an independent regulatory agency, its administrator is confirmed by the Senate and serves at the pleasure of the President, as does a Cabinet Secretary. Likewise, a Cabinet department would remain subject to the same established congressional oversight mechanisms now in place, such as those contained in the Federal Managers' Financial Integrity Act, the Inspector General Act, and other such laws. EPA has been and can be expected to remain subject to congressional oversight through statutory reporting requirements, frequent hearings, and deadlines for agency activities. The 1984 amendments to the Resource Conservation and Recovery Act, for example, specified 76 deadlines, 8 of them containing so-called "hammer" provisions that would automatically result in certain actions if EPA failed to meet the deadlines. The intensity of oversight seems to us to be more closely related to public and congressional concern for environmental issues rather than to the type of organization responsible for the issues.

Hearings on S.2006
Information for the Record

Question:

1. The GAO's December 29, 1989 GAO decision letter (B-237356) confirms that private contractors should not be employed to perform inherently governmental functions. Does the GAO know the extent to which EPA is currently employing private contractors to perform such work? If "yes," please elaborate.

Answer:

We do not have such information at the present time; however, we have a study underway which should provide an indication of how EPA is using consultants. In this review we are assessing current practices at a number of agencies, including EPA, on the use of consultants and whether improved guidelines and procedures are required to guard against the inappropriate use of consultants.

According to EPA data as reported to the Federal Procurement Data Center (see GAO/GGD-90-72FS), EPA's use of contractual consulting services is declining from $168 million in fiscal year 1987 to $85 million in fiscal year 1988 -- a 50 percent decrease. (FY89 data are unavailable). As noted in the fact sheet, however, we did not verify the accuracy of this information. In past reports and testimony we have often discussed the ambiguity of the definition of consulting services, the difficulty of properly categorizing such services, and the resulting significant underreporting of consulting services.

Also, according to the U.S. Budget, full-time equivalent positions in EPA seem to be growing; from 10,883 in fiscal year 1983 to 14,088 in fiscal year 1989.

The increase in staff and possible decrease in contracts may (if contracts are being reported accurately) suggest that the agency could be performing more of its functions inhouse.

Question:

2. Attached please find examples of contractor work products provided to us by EPA. As indicated, the examples show that EPA employs contractors to (a) prepare decisions on EPA letterhead for official signature; (b) draft Congressional testimony; (c) prepare Federal Register notices of proposed and final rules; (d) prepare drafts of regulations, guidance, and enforcement documents; (e) draft internal reports for official signature; (f) draft directives for signature and transmittal by highlevel officials. Is the GAO aware that the EPA allows private contractors to perform such activities? What should be the

limits on the contractors' role in these activities, as provided by the principles stated in the December 29, 1989 decision.

Answer:

We will review this information as part of our ongoing study. We are aware that a recent report of the majority staff of the Federal Services Subcommittee cited numerous examples of activities being performed by contractors which should perhaps be more appropriately performed by government employees. These examples include such work as (1) writing policy for EPA; (2) preparing memos purportedly signed by high-ranking EPA officials; (3) drafting documents to reflect EPA's positions on interagency budget issues; (4) developing guidance to oversee contractors; and (5) assisting EPA in the reauthorization of the Superfund, despite regulatory prohibitions against consultants working on legislation.

We intend to consider activities such as these in our review of EPA contracts. Also, our review will address the issue of what should be the limits on a contractor's role when performing services for the federal government.

Question:

3. Has the GAO examined the adequacy of the present EPA official workforce to manage the contractor workforce? If "yes", can GAO vouch for the adequacy of the present official workforce to do so?

Answer:

In October 1987, GAO reported on the adequacy of the Superfund workforce in a report entitled "Superfund: Improvements Needed in Work Force Management" (GAO/RCED-88-1). In this report, we said that according to EPA program managers, staffing and skill shortages resulted, among other things, in limited oversight of contractors and dependence on contractors for assistance. For example, EPA's New York regional office reported that project managers lacked an understanding of contractor work and site conditions because of the shortage of hydrogeologists and toxicologists. The Philadelphia region said that recordkeeping was poor and there was no assurance that contract terms were being met because of inadequate staff support in contract administration. However, after our survey started, EPA began to use a Congressional authorization to add 773 full-time positions to Superfund. How much contractor oversight was improved by these new positions remains to be seen. We have recently begun a new review of contract management in the Superfund program.

Question:

4. The GAO has repeatedly reported problems in EPA's reliance on contractors to perform its basic work, including the potential for conflicts of interest. (See, eg, September, 1989 report GAO/RCED 89-160, at chapter 5; Jan, 1985 report, GAO/RCED 85-12; 1987 report, GAO/RCED 87-68FS.) The GAO's February 8 statement provides that "[b]etter internal controls are needed, particularly in the area of contracting." Does the proposed legislation adequately address the problems previously identified by GAO? If "yes," please explain. If "no," would the GAO recommend that EPA be elevated in the absence of consideration of they way in which they will be addressed?

Answer:

In our view, the contacting problems discussed in the reports cited in the Committee's question can be solved by EPA action and do not necessarily require legislative changes. We made recommendations in our contracting reports which if implemented by EPA could resolve the conflict of interest and other issues.

Question:

5. In 1980, the GAO reported that it found potential conflict of interest in 51 of 71 EPA contracts it examined. See Statement of H.L. Krieger, in Cost-Benefit Analysis, Hearings Before the Subcommittee on Oversight and Investigations, Committee on Interstate and Foreign Commerce, House of Representatives, 96th Cong., 2d sess. Has the GAO undertaken a comparably large survey of conflict of interest potential at EPA since 1980? Does the GAO have any reason to believe the findings of a sample would be substantially different today? If "yes," please elaborate.

Answer:

GAO has not recently sampled a large number of EPA contracts for conflict of interest. However, in February 1989, we reported that "EPA's conflict of interest system contains weaknesses that hinder EPA's ability to adequately ensure that contractors are adhering to EPA's policy." EPA did not check for conflict of interest during its routine reviews of contractor performance, had not documented what action it had taken when conflict of interest issues arose, and was not getting enough information from contractors regarding possible conflicts. Recently, however, EPA has taken action to better control contractor conflicts of interest. Consistent with our recommendations, it now requires more information from prospective contractors on possible conflicts, has improved guidance to EPA employees and contractors, and established a new conflict of interest unit in its Superfund Procurement and Contract Management Division. In addition, there is a new OMB policy on organizational conflict of interest standards for persons who provide consulting services to the government and its contractors, which is intended to provide more extensive disclosure of information on situations involving potential conflicts of interest. (See OMB Policy Letter 89-1 of December 8, 1989)

Question:

6. Section 202 (3) of the Senate draft bill states a finding that "the size of the [EPA] budget and the number of Federal civil servants devoted to tasks associated with environmental protection is commensurate with departmental status." Could the GAO support a finding that the size and competence of the Federal workforce is adequate in relation to the size of the contractor workforce?

Answer:

Our report entitled "Superfund: Improvements Needed in Work Force Management (GAO/RCED-88-1) discussed the difficulties involved in determining how many federal employees EPA needs to operate the Superfund program. We said in the report that EPA was not using objective means to determine staffing needs. It was not routinely collecting historical data on the time employees spent on various Superfund activities. Instead, it relied on manager's judgments of the time required for tasks when estimating Superfund's staffing needs. We said that EPA lacked productivity measures to gauge how efficiently it was using its Superfund staff, even though differences in the size and skill mix of workforces from region to region showed a need for such measures.

Written Statement on S. 2006

by

Bruce W. Karrh

Vice President — Safety, Health and Environmental Affairs

E. I. du Pont de Nemours and Company

Before the

Committee on Governmental Affairs
of the United States Senate

Washington, D.C.

February 8, 1990

Mr. Chairman, members of the Committee on Governmental Affairs: My name is Bruce W. Karrh. I am vice president — Safety, Health and Environmental Affairs of the Du Pont Company, whose headquarters are in Wilmington, Delaware.

I appear at the invitation of the chairman, Senator Glenn, and Senator Roth, and I am pleased to represent the Du Pont Company in support of S. 2006.

We commend the Senators and their colleagues who are sponsoring the bill: "To establish the Department of the Environment, provide for a global environmental policy of the United States, and for other purposes." The environment is, of course, ultimately global, and in some cases quite immediately global. What is done or not done by the people of one nation can affect the safety, health and economy of the people of other nations, whether it relates to rain forests, use of international waterways, or technology adequate to control emissions of harmful substances into the air.

My company is particularly conscious of the need for international cooperation in environmental protection, because our operations span the globe and our customers are in virtually every business and industrial sector. Du Pont is a diversified chemical, energy and specialty products company. Our 141,000 employees operate some 200 manufacturing and processing facilities in about 40 countries. We supply customers in more than 150 countries.

In what I suppose is the best known current example of my company's involvement in international cooperation on environmental concerns, Du Pont was an early supporter of the Montreal Protocol to reduce emissions of chlorofluorocarbons, commonly known as CFCs. Du Pont helped to develop and introduce CFCs in the 1930s, at first as a safe substitute for less stable products then used for refrigeration. Many other uses were found for the compounds in food preservation, construction, health care and high-technology electronics. But in recent times, CFCs have been implicated in thinning of stratospheric ozone which screens the earth from ultraviolet rays. They also are among the so-called greenhouse gases. Obviously, international cooperation is required to effectively address these environmental concerns.

After the Montreal Protocol was adopted, additional scientific evidence was reported of CFC involvement in ozone depletion. Du Pont was the first company to declare that it would completely phase out production of CFCs as soon as possible and no later than the turn of the century, and to support strengthening the protocol provisions. And we stepped up efforts to develop products that have less harmful potential and could substitute for CFCs until compounds are discovered that are safe and have no potential for damage to the ozone layer.

Neither of these tasks is proving easy, by the way. We think we have some good candidates for interim substitutes, and we are cooperating with competitors to speed the toxicity testing of these products. Nothing is within reach in the immediate future that is going to be completely benign. Some argue against offering anything that has any potential for damage to ozone. And so, frankly, there is reluctance in business to commit funds for equipment and facilities to produce these interim substitutes if they may be banned before the investments can be recovered. Meanwhile, a progressively higher tax placed on CFCs is not doing anything to speed R&D for completely benign substitutes. If anything, the tax is taking funds that could help finance the R&D. This may be good deficit-reduction policy. It is not, in our view, good environmental protection policy.

Another example of Du Pont involvement in environmental concerns is the development of a class of crop protection products based on sulfonylurea chemistry. Briefly, sulfonylureas are effective at ounces per acre rather than pounds per acre, and their toxicity to mammals is less than half that of common table salt. A Du Pont scientist, George Levitt, discovered the basic chemistry in 1976. Crop protectives based on his discovery are today used all over the world, improving agricultural productivity without harm to man or wildlife.

We support giving the environment departmental status in the federal government and giving the head of that department cabinet rank. We believe this has benefits internationally and domestically.

Establishing a cabinet-level department for the environment signals to the people of this country and the world that the United States is as serious about the environment as about other areas of interest represented in the cabinet, from the original foreign affairs, defense and finance, to the more recent education, energy, health, housing and transportation.

In international relationships and negotiations, where position and protocol may be especially important, having cabinet department status should prove very useful, especially because the secretary will be dealing with his peers from other countries on an equal footing.

All cabinet departments have responsibilities related to environmental conditions, some more than others, from recommending tax law to overseeing federal lands, from farm policy to energy production. The secretary of the Department of the Environment will be in a better position than the administrator of an agency to help cabinet colleagues understand the environmental impacts of actions of their departments and to counsel them.

Putting environmental responsibilities at the departmental level will automatically upgrade the positions of personnel charged with carrying out the responsibilities. This should improve recruiting, retention, morale and, one would expect, effectiveness.

Cabinet status for a government function also carries with it a greater responsibility to consider all possible ramifications of its actions, including the possible effects these actions will have on the ability of U.S. industry to compete in the global marketplace. The secretary will have equal rank and full participation in the debate shaping government policies. This requires consideration of the effects of these policies.

Going through the bill, I was struck by the detailed descriptions of the proposed department's personnel and their duties. In the business world these days, there is widespread effort to set goals and provide support and to give wide latitude to the people charged with meeting those goals to decide how to get the job done.

Authorizing establishment of an Interagency Committee on Global Environmental Change, as the bill does, should receive further consideration. We encourage interagency cooperation to give focus to the very diverse environmental interests within our government, and to help resolve differences and come up with coherent policy. But we question whether legislating a new committee for the purpose is the best way to accomplish it.

One of the members proposed for the interagency committee is the chairman of the Council on Environmental Quality. It occurs to us that consideration might be given to absorbing the responsibilities of the Council on Environmental Quality into the Department of the Environment.

Under Title IV, concerning international organizations to which we belong, we certainly support encouraging cooperative efforts to address global environmental concerns, including gathering scientific evidence on which to base recommended policies and actions.

Under Title V, the bill calls for a Commission on Improving Environmental Protection. Section 503 says, "The Commission shall be responsible for examining and making recommendations on integrating Federal environmental law and other authorities to improve the ability of the United States to protect the environment." The language in this section refers to "the need for comprehensive pollution control administrative and legislative reforms that would consolidate, rationalize, and strengthen the management of Federal environmental protection."

Being on the receiving end of environmental laws and regulations, and also of laws and regulations that indirectly affect conduct that impacts the environment, it is very helpful if they all point generally in the same direction, or at least are not in conflict.

I note that the wording of Section 503 refers to "integrating Federal environmental law and other authorities ...." If this language is intended to provide direction for establishment of uniform national policies and rules on environmental issues of national and international scope, while reserving to the state and local governments jurisdiction over state or local issues, we wholeheartedly support this concept. We would urge, however, that either the language of the bill or the legislative history be made clear on this point.

Certainly, for the manufacturer of a product offered across the country, it is costly to be required to meet in different jurisdictions different regulations, all presumably designed to protect the environment. It is costly for the maker and for the consumer. Efficiency is better served by uniform regulations. On the other hand, there may be special circumstances in a given area calling for protection through regulations that are not generally needed.

The language proposing the 13 members for the Commission on Improving Environmental Protection does not seem to exclude representatives of business and the public. And at least one advisory group is proposed. However, among the seven members to be appointed by the President and the three each to be appointed by the Speaker of the House and the Senate Majority Leader, we urge that there be experts from the private sector. We believe their direct participation will be an important contribution in the commissions' deliberations.

Finally, Mr. Chairman, we support S. 2006 to establish the Department of the Environment, because it responds to the people of this country who believe the environment is important. And we certainly share that belief. Survey after survey of public opinion verifies that environmental protection has become a continuing public concern. Some of the concern is related to health and safety. Some of it is related to preservation of wildlife and plant species. In our experience there is a growing common ground occupied by people and organizations, public and private, profit and not-for-profit, who recognize that human beings are not just consumers but also stewards of what constitutes the environment.

Thank you for the opportunity to appear in support of S. 2006.

8 February 1990

ER-8805

DU PONT

E. I. DU PONT DE NEMOURS & COMPANY
INCORPORATED
WILMINGTON, DELAWARE 19898

VICE PRESIDENT – SAFETY,
HEALTH AND ENVIRONMENTAL AFFAIRS

June 21, 1990

The Honorable John Glenn
United States Senate
Committee on Governmental Affairs
Washington, D.C. 20510-6250

Dear Senator Glenn:

The following are submitted to the record of the hearings on S.2006, in response to the questions attached to your May 25, 1990 letter of request.

The general thrust of all of the questions is how well known is the fact that EPA uses contractors to assist in many of its fact-finding, rulemaking and enforcement responsibilities, and whether the public has a right to know the extent of contractor involvement.

The many laws, and their varied nature that establish the mission for EPA and which EPA is charged with enforcing, make it essential that the Agency call on outside contractor expertise to carry out many of its duties. This has been well-known by the regulated community since the Agency's founding. Using contractors for even the most sensitive work does not present difficulties as long as it is known that contractors are being used, due diligence is exercised in choosing the most qualified contractors; appropriate safeguards, such as secrecy and confidentiality agreements, are contained within the contract, the conduct of the contractor is monitored by the Agency and the product of the contracted work meets the criteria established by the Agency. To suggest that only employees of the Agency carry out all of EPA's large number of statutory mandates would severely impair its ability to respond to its multiple requirements and would necessitate a staff many orders of magnitude larger than at present. The use of contractors is common not only at EPA but also at state agencies and in industry where specific expertise or qualified additional manpower are needed to meet the organization's needs.

In response to the specific questions:

(1) As shown by Attachments 1 and 2, EPA employs contractors to prepare decisions on Agency letterhead, for official signature. Were you aware that this is the case?

The regulated community has known since EPA was established that contractors carry out various aspects of the Agency's

Better Things for Better Living

responsibilities. The fact that a contractor, working under Agency oversight, prepares documents on Agency letterhead for official signature has not been a problem from our perspective since the Agency is ultimately responsible for the content of the decision. The official who signs the decision is presumed to know and concur with the decision and, by signing, has accepted responsibility.

(2) As shown by Attachment 2, EPA contractor work product provided to us shows that EPA employs contractors to prepare drafts of Federal regulations and final Federal Register notices. Were you aware that this is the case?

As answered above, we are aware that contractors prepare drafts of Federal regulations and Federal Register notices and do not see this as an issue of concern since the Agency reviews and takes responsibility for the work product.

(3) Where EPA employs a contractor to assist in preparing a rule or decision that affects your company do you believe that you are entitled to know a) the nature of the contractor's role; b) any relevant interests possessed by the contractor (e.g., does it work for competitors? have an interest in a particular process, etc.).

EPA needs to make available to any interested party the fact that a particular contractor was chosen for a specific piece of work. This should also contain a disclosure by the contractor of any potential conflicts of interests, such as current or previous clients the contractor may have or have had, any financial interests in the particular issue, etc. The fact that a contractor has worked for a competitor does not, by itself, present a problem as long as the contract contains adequate and appropriate secrecy or confidentiality requirements to protect proprietary interests.

(4) When your firm employs a "professional service" contractor or consultants, what kinds of disclosure is sought regarding further interests possessed by the contractor?

Contractors are selected on the basis of competence on the issue. During the contract negotiation, appropriate disclosures will be made to assure no conflicts exist. We don't require that contractors have never done work for competitors. To do so may deprive us of the most experienced, qualified contractors.

(5) EPA employs contractors to assist in investigatory and enforcement activities. Are you aware of this practice? Do you have any comments or observations on the role of private contractors in these activities?

We are aware of the practice and have no concerns as long as the Agency clearly advises the public of the role of the contractor. The Agency must ultimately carry out enforcement as it is the responsible authority.

(6) Where EPA employs a contractor to assist in planning, investigation, or enforcement work at a site, should the public have a right to know whether the contractor also works (at the site or at other locations) for any of the entities that is the subject of the EPA assignment?

This, of course, is a complex issue. Both the Agency, the contractor and the company should consider potential conflicts. Often different divisions of a contracting firm would be involved. Care needs to be given to avoidance of conflicts, but we face the same issues when one part of our company is a customer and another is a competitor of another firm.

The fact that the contractor is involved at the site should be available to the public but there is no need for public announcement. This disclosure should also contain a summary of any possible conflicts of interest for the interested public to review, including describing the relationship with any of the entities that are the subject of the EPA assignment.

(7) Where EPA employs a private contractor to draft a rule, decision, or guidance document, does the public have the right to be put on notice of the contractor role?

The fact that EPA has employed a private contractor for the work described should be available to the public. Also, any entities to be contacted by the contractor for the Agency should be contacted by EPA in advance for the express purpose of describing the role of the contractor and that the work is being done for EPA. Otherwise, the contractor's right of access to the site may be severely restricted by the owner, impairing the contractor's ability to fulfill the Agency's need. In addition to providing notice to the public, the public (including the regulated community) should be given access to the contractors work product when the work product is not published by the Agency.

(8) Where EPA employs a consulting contractor who also works for your firm or members of your association should EPA be entitled to know relevant information about the relationship(s)? If "yes," what information would you deem relevant?

EPA should be entitled to the same type of conflict of interest disclosure from a contractor as is the public and the regulated community. This would contain information on others for whom the contractor had worked or is working and the nature of those relationships and procedures that are in place to avoid or minimize conflicts. The reverse is also true, the regulated entities need to know current and prior relationships between the contractor and the EPA and between the contractor and other regulated entities.

(9) In urging elevation of EPA to cabinet status, have you considered the adequacy of the current EPA "official" work force to understand and control the work of the contractor work force? If "yes," please elaborate.

Whether EPA is cabinet status or continues as an independent Agency should not affect the adequacy of its current official work force to understand and control the work of the contractor work force. In fact, cabinet status could possibly make EPA more capable in the future because the work force may be enhanced in quality and number. The contracts and the contractor work force need to be managed well irrespective of the status of the Agency and cabinet status won't degrade this and may improve it.

I wish to thank you for the opportunity to respond to Senator Pryor's questions and respectfully request they be entered into the record of the hearing on S.2006.

Respectfully yours,

Bruce W. Karrh

/dcl

CMA
CHEMICAL MANUFACTURERS ASSOCIATION

William M. Stover
Vice President-Government Relations

February 23, 1990

The Honorable John Glenn
Chairman
Committee on Governmental Affairs
340 Dirkson Senate Office Building
Washington, D.C. 20510-6250

Dear Mr. Chairman:

On behalf of the members of the Chemical Manufacturers Association, I am respectfully requesting that the attached statement be made a part of the February 8 hearing record of S. 2006, the Department of Environment Act of 1990.

CMA member companies represent more than 90% of the productive capacity for basic industrial chemicals in the United States and are subject to a wide range of regulatory programs administered by the Environmental Protection Agency. In this regard, CMA has a keen interest in legislation such as S. 2006 which seeks, primarily, to elevate the EPA to a Cabinet-level department.

As reflected in CMA's oral testimony, delivered by Mr. Ron Van Mynen, and further outlined in the attached written comments, CMA supports the idea embodied in S. 2006 that EPA should be given the stature of a Cabinet-level department. This action will clearly signal strong national commitment to protecting the environment and a recognition that the EPA plays a vital role therein. CMA's support of such an approach is indicative of the industry's long standing commitment to environmental awareness and protection.

In the years ahead, conflicting priorities and scarcity of resources will dictate that environmental decisions must be prioritized and based on sound scientific and economic data. CMA hopes the provisions of this bill will further ensure this practice. We are concerned, however, that some of the new organizational elements envisioned for the Department may duplicate or overlap existing entities and thus resources may be wasted in redundant activities or needless complexity. These and other themes are addressed in more detail in the attached statement.

2501 M Street, NW, Washington, DC 20037 202-887-1122 Telex 89617 (CMA WSH)

The Honorable John Glenn
Page 2
February 23, 1990

We appreciate this opportunity to share the chemical industry's views on this important legislation. If you or your staff have any questions, please feel free to contact Robert Flagg, Legislative Representative of Hazardous Waste and Groundwater, on 887-1141.

Sincerely,

WM Stover

William M. Stover
Vice President
Government Relations

CMA
CHEMICAL
MANUFACTURERS
ASSOCIATION

WRITTEN TESTIMONY

OF

CHEMICAL MANUFACTURERS ASSOCIATION

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS

U.S. SENATE

ON

THE DEPARTMENT OF ENVIRONMENTAL PROTECTION ACT OF 1990 (S. 2006)

February 8, 1990

2501 M Street, NW 202-887-1100
Washington, D.C. 20037 Telex 89617 (CMA WSH)

The Chemical Manufacturers Association (CMA) offers the following supplemental comments to the oral statement of Mr. Ron Van Mynen, Vice President, Health, Safety and the Environment, Union Carbide Chemicals and Plastics Company. Mr. Van Mynen presented these comments on behalf of CMA before the Committee on Governmental Affairs regarding the "Department of the Environment Act of 1990" (S.2006).

CMA is nonprofit trade association whose members represent more than 90 percent of the productive capacity for basic industrial chemicals in the United States.

CMA supports the idea of elevation of the Environmental Protection Agency (EPA) to a cabinet level department as proposed in S.2006. Elevation of EPA to cabinet rank will demonstrate the commitment of this country to protect the environment, insure that our environmental policies are coordinated with other federal policies, and provide the secretary ministerial rank for international negotiations and meetings.

In broader terms, the elevation of EPA signifies the maturity of the national commitment to global protection of the environment and can provide an important symbol on this 20th anniversary of Earth Day.

While some may see creation of a cabinet rank agency as simply a symbol, we believe it offers a number of opportunities to improve the commitment to protect the environment. Specifically we hope the department will take a leadership role in insuring that sound, scientifically defensible steps are taken to protect the environment. Too often in the past this country has made environmental decisions based on emotion. We must insure that all of our decisions are based on peer reviewed data and reasonable predictions of the effects of an action as well as the impact of taking no action.
The department must set priorities based upon overall risk to human health and the environment and not be swayed by media attention to current issues that are not of overall importance to the environment.

The new department should assist the public in making informed decisions by providing information on technical matters, such as risk analyses, and emission data. The public needs to understand the numbers we bombard them with in the context of the other decisions they face. For example, when the public is informed of a decision to withdraw a product from a specific use, information should be provided on the net effect of that decision and the contribution of that decision to their overall well being.

TITLE II Elevation of the EPA to Cabinet Rank

Title II of S.2006 can provide most of these benefits, but in the process of establishing the new Department, we should not create long term programs that could further complicate the mission of the Department and use resources better saved for existing programs. We recommend that the proposed functions of each new entity be reviewed carefully against the present or potential functions of existing entities to avoid duplication, overlap and unnecessary bureaucratic growth. Where existing organizations can do the job, the creation of new organizations, redundant of existing organizations should be eliminated in whole or in part.

We offer the following comments on Section 208 of Title II, Title III, Title IV and Title V of S.2006 with a view toward minimizing overlapping authorities, data collection efforts and regulations of the various agencies with a role in environmental protection.

Section 208 - Bureau of Environmental Statistics

We endorse the idea of establishing a Bureau of Environmental Statistics to collect and disseminate information about environmental quality. Compilation of this information will assist the public in understanding the overall affectiveness of environmental control measures. It will also help the government set priorities and spend its resources on those issues that will result in the largest potential for improving the quality of the environment. The simple act of compiling data from the many different agency data collection efforts will be useful.

While the new Bureau will be beneficial, we do not support any authority to make any new data collection requirements. All authority to collect information from the public should be included in the basic statutes. We see the Bureau as a compiler of these individual data and, as referenced to in 208(a)(2), as an entity to insure that only reliable statistics are included in its reports.

We are also concerned that the Bureau may establish new "measures" to determine environmental quality and thereby create new data collection needs. Before establishing any new "measures", the Bureau should be required to justify the change and if appropriate replace existing measures and data collection efforts with the new efforts.

The annual report required in 208(c) may be redundant of the annual report prepared by the Council of Environmental Quality (CED). This annual report should not duplicate the same objectives of the CEQ report. We recommend that the purposes of the Bureau's report be clearly delineated to avoid a conflict.

We endorse the stipulation in Section 208 (c)(4) that the proposed Environmental Statistics Annual Report include "economic information on the current and projected costs and benefits of environmental protection."

The principle that environmental protection actions or policies be based on rigorous economic analysis of the expected costs and benefits is critically important. We know the American people want a clean environment. At the same time, we believe that the American people also highly value the many benefits of an expanding economy. A good and rising standard of living is still a part of the American dream. So, CMA believes it is imperative that the effect of proposed environmental protection measures on important American values -- including but not limited to environmental protection -- be fully and methodically considered.

There is another important point. We live in an era of scarce resources. Our Federal government is running an enormous deficit and accumulating debt at an alarming rate, debt which threatens the well-being of our children and grandchildren as well as ourselves. Our manufacturing industries, including the chemical industry, are operating in an increasingly competitive global environment where constant attention to efficiency and costs is critical not only to continued prosperity, but to survival. Under these circumstances, only the most thoroughly justified and highest priority measures which impose new costs on government or industry are defensible.

Given the importance of cost analysis to environmental protection measures, CMA proposes than an additional "general finding" be added to Section 101 of S. 2006 to recognize this point.

Title III - Interagency Committee on Global Environmental Change

We question the need to establish an Interagency Committee on Global Environmental Change under this bill. For the following reasons, we believe that Title III of this act should be modified to reflect the activities of existing groups or should be deleted in its entirety. We do agree that there is a need to have an interagency committee formulate policy on global environment change, but the new committee appears to overlap or duplicate the policy activities of the Domestic Policy Council (DPC) on global climate change. If the purpose is to establish an interagency activity it would be more appropriate to do so in separate legislation.

The proposed committee also appears to overlap, somewhat, the already existing functions of the Federal Coordinating Council for Science, Engineering and the Technology Committee on Earth Sciences (CES). The CES is dedicated to science/research initiatives and has made remarkable progress in advocating and implementing a coordinated

U.S. global change science research program involving all relevant U.S. government agencies.

In view of these existing committees, we believe that Title III of this act should be deleted or modified to reflect the activities of the existing groups.

Title IV - Environmental Role of the United States in International Organizations

CMA supports emphasis on international coordination of environmental policies as included in Title IV. To achieve that coordination, the new Department of the Environment musts recognize that concerted multilateral action rests on a foundation of international consensus.

Section 402 should reflect that the U.S. will work toward multilateral lending guidelines that promote energy conservation and environmental protection, rather than urging only U.S. unilateral adherence to such principles.

Section 404 promotes an international conference on global climate change. CMA believes that a more productive approach would be to urge a cooperative program of the United Nations Environmental Program (UNEP) and the International Energy Agency to promote energy efficiency. Mere sponsorship of another global climate conference without an ongoing program to promote multilateral agreement on energy efficiency simply will not be useful. If a global climate meeting is convened it should be done with all relevant agencies through the DPC interagency committee and in conjunction with UNEP/WHO efforts.

Section 405 appears to suggest that UNEP/WHO gather data on concentration of greenhouse gases or that they compile data on CO2 emissions and other greenhouse gases from individual governments. It is inappropriate for such language to appear in this bill as the decision to collect information should be left to the discretion and agreement of the parties to a UNEP/WHO convention.

Title V - Commission on Improving Environmental Protection

CMA believes that Title V is an important and potentially very promising feature of S.2006. Creation of a commission on Improving Environmental Protection to review laws, policies and regulations to unite and rationalize environmental protection programs is sorely needed.

Members of the CMA and others in the regulated community are frequently confounded, frustrated and baffled by conflicting, overlapping and duplicate requirements. The result is sometimes reduced protection for the environment and in many cases expenditures for no net improvement in protection.

The commission should seek a broad array of opinions from the public and members of the regulated community. We applaud the creation of advisory groups in Section 506 to provide input. We request that industry be specifically included as members of one or more of advisory groups created to assist the commission.

The commission could, if well staffed and funded, produce recommendations that would streamline and prioritize the nation's environmental objectives. It could help us spend resources where they are currently needed rather than in programs and activities that no longer have relevance. Likewise, they could help us refocus on unfinished business before we reach for new objectives.

CMA

CHEMICAL MANUFACTURERS ASSOCIATION

June 25, 1990

The Honorable John Glenn
Chairman
Committee on Government Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Glenn:

On February 8, 1990, Mr. Ron Van Mynen, Vice President for Health, Safety and Environment of Union Carbide Chemical and Plastics Company, Inc., testified on behalf of the Chemical Manufacturers Association (CMA) before your Governmental Affairs Committee on the "Department of Environment Act of 1990" (S. 2006). Subsequently, on June 1, CMA received your letter requesting that Mr. Van Mynen respond, for the record, to follow-up questions submitted by Senator Pryor.

As you know, the nine questions dealt with various aspects of the Environmental Protection Agency's use of contractors. The enclosed document constitutes the Chemical Manufacturers Association's formal response to these questions.

If you or your staff have any questions or comments relative to our response or to other aspects of the subject legislation, please contact Robert Flagg of my staff at (202) 887-1141.

Thank you.

Sincerely,

Timothy F. Burns

Timothy F. Burns
Director
Federal Legislative Affairs

Enclosure

2501 M Street, NW, Washington, DC 20037 202-887-1100 Telex 89617 (CMA WSH)

JUNE 25, 1990

RESPONSE TO QUESTIONS OF SENATOR PRYOR REGARDING S 2006

Question 1: As shown by Attachments 1 and 2, EPA employs contractors to prepare decisions on agency letterhead, for official signature. Were you aware that this is the case?

We are not aware that contractors prepared letters for signature on Agency letterhead. We are, of course, aware that contractors prepare most of the technical support documents and economic analyses needed for Agency rulemaking and other actions.

Question 2: As shown by Attachment 2, EPA contractor workproduct provided to us shows that EPA employs contractors to prepare drafts on Federal regulations and final Federal Register notices. Were you aware that this is the case?

Yes, we are aware of this practice in some offices, but we are reassured that all Federal Register notices undergo a lengthy "red border" Agency review ensuring that the published proposal or rule truly reflects the views of the Agency.

Question 3: Where EPA employs a contractor to assist in preparing a rule or decision that effects your company, do you believe that you are entitled to know (a) the nature of the contractor's role (b) any relevant interests possessed by the contractor, e.g., does it work for competitors? have an interest in a particular process, etc.

The name of the contractor and the scope of work for the contract should be available to the public. Discovery of any conflicts of interest should be a part of EPA's standard contracting process. A description of that process and the documents relating to it should also be available to the public.

Question 4: When your firm employs a "professional service" contractor of consultants, what kind of disclosure is sought regarding further interests possessed by the contractor?

We do not require full disclosure of potential contractor's interest, but do ask for a client list or list of previous work in that specific area. We do, as a matter of contracting procedure, require that the contractor conduct their work as an "independent contractor." We take appropriate actions to assure there are no real or potential conflicts of interest. We insist on written secrecy agreements protecting trade secrets and potential confidential business information.

Question 5: EPA employs contractors to assist in investigatory and enforcement activities. Are you aware of this practice? Do you have any comments or observations on the role of private contractors in these activities?

We do not believe it is appropriate to use contract firms or contract employees to conduct site investigations for enforcement purposes or conduct other enforcement activities. Only EPA and state employees should be engaged in this type of work because of the obligations of those employees to hold confidential any information discovered during their investigations. Contract employees do not have the same obligations and information collected might be revealed outside the enforcement proceedings.

Question 6: Where EPA employs a contractor to assist in planning, investigation, or enforcement work at at site, should the public have a right to know whether the contractor also works (at the site or at other locations) for any of the entities that is the subject of the EPA assignment?

Again, we believe the contracting procedures should be sufficiently rigorous as to prevent any conflicts of interest. However, as already stated, we do not believe it is appropriate for contract personnel to conduct enforcement investigations.

Question 7: Where EPA employs a private contractor to draft a rule, decision, or guidance document, does the public have the right to be put on notice of the contractor role?

The public should have assess to this information through the program office developing the rule or guidance. This information should be available on request.

Question 8: Where EPA employs a consulting contractor who also works for your firm or members of your association should EPA be entitled to know relevant information about the relationship(s)? If yes, what information would you deem relevant?

EPA should employ contractors with no conflict of interests. EPA's contract procedures should be rigorous enough to ensure this. Information on the scope of the contract and the warranties of the contractor to act as an independent contractor should also be available.

Question 9: In urging elevation of EPA to cabinet status, have you considered the adequacy of the current EPA "official" workforce to understand and control the work of the contractor workforce? If yes, please elaborate.

While we did not specifically consider the adequacy of the workforce in our recommendations to elevate EPA to cabinet rank, we do believe Congress should consider the adequacy of the workforce each time it passes a bill with additional programmatic requirements and ensure that adequate resources are available. The degree to which new requirements can be handled by staff or by a contract workforce should also be considered at the same time.

NEMA

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Telex 904077 NEMA WSH

STATEMENT OF

DANIEL K. SHIPP

VICE PRESIDENT, PUBLIC AFFAIRS

NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION

ON S. 2006

DEPARTMENT OF THE ENVIRONMENT ACT OF 1990

BEFORE THE

SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

FEBRUARY 8, 1990

Mr. Chairman and members of the Committee:

My name is Daniel K. Shipp, and I'm Vice President Public Affairs of NEMA, the National Electrical Manufacturers Association.

NEMA is the leading U.S. organization representing and serving America's electroindustry companies. These companies -- over 600 of them -- operate plants in the United States manufacturing a variety of products for industry, construction, government, medicine and consumer use. They compete in world markets, and employ over 750 thousand Americans.

NEMA and its member companies share a commitment to protecting and preserving the environment. We have worked closely with the EPA and other agencies, Congress and state legislatures, industry and environmental groups. We have participated in negotiated rulemaking. For our industry, we have published guides on compliance with SARA Title III and OSHA's Hazard Communication standards, and a guide for plant managers on how to communicate about chemical risks. We're trying to find ways that industry and government can avoid the enormous transactional costs and delays of Superfund cleanups. Today we are preparing a workshop and guidebook on waste reduction.

In addition, all the products represented by this Association either make, carry, control or use electricity, the availability and cost of which is clearly affected by environmental regulation.

In these and numerous other specific environmental matters, we're guided by the principle that the environment can be made clean and safe, without harming the competitiveness of U.S. industry, when industry, government and the public work together to find workable and cost-effective solutions. The atmosphere of contentiousness and litigation that often prevails does little to help, and generally results in delayed environmental cleanup at unnecessarily high cost.

In other words, we consider ourselves environmentalists, no less so than organizations whose sole focus is on the environment.

Last year, NEMA was a rarity -- a business organization that endorsed the bills introduced by Senator Durenberger and Representative Florio to elevate the Environmental Protection Agency to full Cabinet status. As I testified before a House Government Operations subcommittee, this was not an easy position to take for an industry heavily regulated by federal and state environmental agencies.

But we believed then, and continue to believe, that the proposal makes sense for several reasons:

First, environmental policy in the United States needs to be coordinated government-wide, at a level consistent with a seat at the Cabinet table. Other Executive branch departments need to be constantly aware of the effect of their actions on the environment, just as the environmental protection professionals must be constantly aware of the effect of their actions on the broader national interest.

A Secretary of the Environment can go head-to-head with the Secretaries of Defense, Agriculture, Energy, Labor, State and others -- perhaps even Congress -- to make sure that all our government's policies and practices are environmentally sound. But we see another important benefit of an environmental seat at the Cabinet table. Solutions to environmental problems take many different forms, and sometimes involve trade-offs. Other executive officials would be able to make sure the Secretary of the Environment considers and understands the effect on national defense, international trade, industrial and agricultural competitiveness of any regulatory approach. This way, the Secretary can select the option that best considers the national interest.

And it is the national interest at stake here. Preservation of the environment requires national solutions, and is at least as critical to our future as energy, education, housing, transportation, health and welfare, business and international trade, and other areas of public policy represented by a Cabinet-level department. Clearly, administration of environmental policy belongs in the highest circle of executive policy making.

Next, NEMA recognizes the need for global strategies for environmental protection. Pressing concerns such as ozone depletion and global warming, acid rain, clean air and water pay no respect to national boundaries. The U.S. needs to be a world leader in environmental preservation, providing technological assistance where it is needed, and inspiration and persuasion to those countries whose priorities may be different. To do this, it seems highly desirable to have a senior government official -- at a rank equal to the environmental ministers of other major nations -- in charge.

Finally, we see in the establishment of a Department of the Environment an opportunity to correctly define the roles of Congress and the Executive Branch. But this depends on the willingness of Congress to make it a success. While the Congress passes laws to set the national environmental policy, the administration of policy is properly a function of the Executive Branch.

What we are saying is that if the Congress wants to raise the stature of the EPA to a Department of the Environment, then it has an obligation to let this Department do its work. There has been an unfortunate tendency in recent years for Congress to try to micro-manage, to write environmental regulation into law, setting specific exposure thresholds, naming chemicals, establishing deadlines for action. The result in some cases has been laws and rules based more on passion and politics than on rigorous scientific examination and assessment of risk to health or the environment.

Let me give you an example, that hits close to home in the electrical industries. When it passed the Toxic Substances Control Act (TSCA) in 1976, Congress clearly defined goals and set policy for EPA to follow, but left it up to the expertise of the regulatory agency to develop rules for controlling chemicals likely to cause harm to the environment or to people. Congress also clearly recognized its limitations in deciding which chemicals should be regulated and provided for development of basic toxicity and exposure data needed to regulate on a solid scientific basis.

But there is one glaring exception to this model legislative approach. Section 6(e) of TSCA singles out a specific compound to be banned -- polychlorinated biphenyls, better known as PCBs. On the basis of very sketchy information about an incident in Yusho, Japan in which PCBs were involved, Congress took this unusual action and in so doing violated its own stated intent.

Today, thirteen years later, scientific evidence absolves PCBs of blame for the Yusho incident and exhaustive studies of workers exposed to high levels of PCBs show no lasting health effects of any kind. And yet billions of dollars are being spent to comply with TSCA rules on PCBs in the mistaken belief that their presence presents an unreasonable risk to human health and the environment. The pervasive public myth that PCBs are a potent human carcinogen will probably never be dispelled.

I have made the comments on PCBs to illustrate a point. Congress can be moved by single-issue politics and public perception of environmental hazard that is often out of line with actual risk. With all that is at stake, with the effects of that regulation on the competitiveness of this nation, shouldn't decisions on environmental regulation be made free from political pressure, by professionals?

Congress will hardly be abdicating its responsibility by this approach. It should set goals and establish as policy that the government will work to solve major existing and potential environmental problems. But it should empower the Executive Branch to develop scientifically valid risk assessments, and rules and regulations to meet those goals. It should adequately fund this effort. And it should use its oversight authority to ensure that these goals are being met.

In this regard, we applaud the inclusion of Title V, establishing a Commission for Improving Environmental Protection. This commission will make recommendations to the President and Congress on "the need for comprehensive pollution control administrative and legislative reforms that would consolidate, rationalize and strengthen the management of Federal environmental protection." Sec. 503(1). Here is the ideal opportunity to realign the relationship between Congress and the regulators, and take an important step toward public recognition that environmental preservation must be above politics.

Congress has ample opportunities to show its commitment to this concept. Today there are bills before the Congress that would spell out specific pollutants which EPA must regulate, specify articles to be recycled, establish allowable concentrations of emissions of various substances for municipal incinerators, even ban outright the use of certain metals.

These are not questions for the Congress to answer. Rather, they are questions for the Congress to put to a reliable, adequately funded agency of environmental professionals, who can apply scientific analysis to problems.

I hope that this is the goal of the sponsors of this legislation in establishing a Department of the Environment.

I thank you for your time and attention, and pledge NEMA's support in helping to ensure a clean and healthy environment for the United States and the rest of the world.

American
Psychological
Association

Advancing psychology as a science, a profession, and as a means of promoting human welfare

STATEMENT OF

THE AMERICAN PSYCHOLOGICAL ASSOCIATION

before the

UNITED STATES SENATE

Committee on Governmental Affairs

on the subject of

S. 2006, the Department of the Environment Act of 1990

February 7, 1990

The Honorable John Glenn, Chair
340 Dirksen Senate Office Building

1200 Seventeenth Street, N.W
Washington, DC 20036
(202) 955-7600

The American Psychological Association (APA) is a scientific and professional organization of over 97,000 psychologists with interests in normal and abnormal human development, psychological functioning, and cognitive/behavioral functioning. We are vitally interested in the recent initiative to elevate the Environmental Protection Agency (EPA) to cabinet-level status.

We wish to express the APA's fundamental support for Senator Glenn's "Department of the Environment Act of 1990," which we believe is critical in giving environmental matters the visibility and attention they deserve at the federal level -- as well as the global level, as the world grows ever increasingly interdependent in its efforts to combat environmental pollution and ecological damage.

Let us provide a little background on APA's concerns, as well as what the APA has learned during the last ten years, as the APA examined regulations designed to protect the public health against neurotoxic hazards.

By the term "neurotoxic hazard" we are referring to chemical effects on the human nervous system (i.e., the complex network of nerve fibers, transmitters, hormones, receptors, and so forth) that controls body movements, thought processes, respiration, and numerous other behavioral, physiological, and psychological processes.

All major body systems can be adversely affected by toxic substances, but the human nervous system is particularly vulnerable. Unlike many other types of cells, nerve cells (or neurons) have a limited capacity to regenerate. Furthermore, the nervous system is composed of much higher concentrations of fat-like substances -- called lipids. Researchers have found that toxic substances have a strong attraction for lipids, and, consequently, toxic substances tend to more easily enter (and remain) in tissues with a higher lipid content.

Of particular significance is that approximately 50 percent of the brain is lipid -- as compared to 6 to 20 percent of other organs. Of the 588 major industrial chemicals known to be hazardous today, 167 (28%) have documented negative neurotoxic effects. Furthermore, of the 200 industrial chemicals to which more than one million Americans are exposed each year (according to NIOSH estimates), 65 (33%) have shown evidence of neurotoxicity.

These striking findings explain the APA's support for the initiative to elevate the Environmental Protection Agency to cabinet status.

While the APA is encouraged by the creation of a new Bureau of Environmental Statistics under section 208 of the Senator's bill, we are concerned that it does not adequately promote a long-term research program at the proposed Department of the Environment -- designed to support the goal of minimizing risk to health and the environment. The requirement that the new Bureau prepare an annual environmental statistics report is useful, yet it appears that it runs the risk of becoming a "bean counting" organization -- if it does not support its own innovative research program. A mere statistical reporting approach would do nothing to encourage the generation of new environmental data derived from experiments focusing on long-term health risks associated with environmental damage and degradation.

As former EPA Administrator William Ruckelshaus stated in 1988:

> The job of protecting Americans from involuntarily imposed risks forms a fundamental challenge for the rest of this century. The public simultaneously fears the heath effects of potentially toxic chemicals, while being justly skeptical about our ability to understand and differentiate the true risks of these chemicals. As a society, we have spent billions to control pollution, but we have sometimes done so in a reactive way, responding to the pressures generated by the latest bit of evidence. The result of all this is that our progress has been impressive, but uneven. We have tight controls on risks that may be very small, but remain nearly in the dark about risks that may constitute much larger public health threats...a critical part of our ability to deal credibly with the public about risk resides in improving the scientific base underlying risk assessment [emphasis added].

Another EPA Administrator, Lee Thomas, also expressed concern over EPA's lack of systematic long-term research activities. He requested the EPA's Science Advisory Board (SAB), in the spring of 1987, to provide its advice on ways to improve strategic research planning at the Agency. Thomas was concerned about an apparent imbalance between the Agency's short-term, program-related research and its longer-term, basic research. He sensed that EPA's immediate regulatory needs were driving its research and development efforts, while longer-term research was being neglected.

The EPA Research Strategies Committee that was created by the SAB in response to the Administrator's request was headed by Al Alm, former Deputy Administrator of EPA, and it was composed of nearly fifty nationally-recognized scientists, engineers, and administrators in government, industry, academia, and environmental organizations. Among the recommendations of this EPA research advisory committee were:

> In support of its belief in the essential value of a strong, coordinated EPA R&D program that has as its long-term goal the prevention or reduction of environmental risk, the Research Strategies Committee makes the following recommendations:

> ...To support this new strategy, EPA should plan, implement, and sustain a long-term research program. In conjunction with EPA's program offices and the external scientific community, EPA's Office of Research and Development should develop basic core research programs in these areas where it has unique responsibilities and capabilities [emphasis added].
>
> EPA needs to establish better mechanisms to ensure that a coherent balanced R&D strategy is planned and implemented. EPA needs to establish an internal Research Strategy Council to oversee its R&D program; a standing committee of the Science Advisory Board should provide an independent review of EPA's core research program; and the Assistant Administrator for Research and Development should be changed from a political to a career position.

The APA agrees with the above conclusions of the EPA/SAB Research Strategies Committee. In this regard, we believe that two changes to Senator Glenn's bill may help address these deficiencies:

First, add a "finding" to Section 101, by inserting "finding number 3" (and renumbering the last two findings):

> 3) We need to improve our understanding of the processes and practices that generate pollution, the media by which it is transported, the mechanisms of human exposure, the behavioral, psychological, and physical consequences of risks that are posed by pollution, and potential approaches (including behavioral options) for the reduction of risk. Thus, a long-term research program to identify environmental hazards and risk management options is necessary to guide the protection of the environment;

Second, adding a mechanism for a long-term research program—guided by the proposed Bureau of Environmental Statistics (perhaps more adequately titled Bureau of Research and Environmental Statistics) in conjunction with the Science Advisory Board and administered by the Office of Research and Development.

The Bureau will be responsible for providing a list of priority areas of research to the Office of Research and Development which will have the designated authority to maintain intramural and extramural programs to provide this knowledge. Resources should be allocated for those targeted areas of research independent of the other program offices within the new Department of the Environment.

The above requirements will be accomplished in the legislative language by enlarging the Bureau's list of responsibilities:

> 208(a)(7) identifying missing data necessary to protect the health and environment, reviewing these information needs at least annually with the Science Advisory Board, providing this information to the Office of Research and Development, and, with their consultation, maintaining extramural and intramural research programs to provide this knowledge;

The APA offers its praise to the Chairman for his leadership in this area. In light of the pressing environmental problems that face our globe today, the need for United States leadership in combating the rapid degradation of our habitat is long overdue.

Clearly, environmental issues will be among the top agenda items for Congress and the President during the final years of this century and well into the next. In order to meet these challenges the new Department of the Environment will need strong leadership, ample resources, highly trained and dedicated employees, and an extensive and scientifically validated database on which to base its regulatory decisions.

Mr. Chariman, thank you for this opportunity to express the views of our membership on this matter. The APA stands ready to assist the Committee as it considers this landmark piece of legislation.

POPULATION-ENVIRONMENT BALANCE
1325 G Street, N.W. Suite 1003, Washington, D.C. 20005-3104 (202) 879-3000

STATEMENT OF

ROSE M. HANES

EXECUTIVE DIRECTOR, POPULATION-ENVIRONMENT BALANCE

SUBMITTED TO

SENATE GOVERNMENTAL AFFAIRS COMMITTEE

UNITED STATES SENATE

S. 2006 "DEPARTMENT OF THE ENVIRONMENT ACT OF 1990"

FEBRUARY 13, 1990

Population-Environment Balance, Inc. (formerly The Environmental Fund) is a national, non-profit membership organization dedicated to maintaining and improving the quality of life in the United States through population stabilization.

Garrett Hardin (Honorary Chairman), Directors: Virginia Abernethy, David F. Durham, Lawrence Kown, Thomas F. McMahon

recycled paper

Population-Environment Balance (BALANCE) is pleased to submit its views concerning **S. 2006, the "Department of the Environment Act of 1990,"** to the Senate Governmental Affairs Committee. We believe that this legislation, which would elevate the Environmental Protection Agency (EPA) to cabinet-level status, is an important first step in making the environment this nation's top agenda item for the 1990's.

BALANCE is a national non-profit membership organization that represents increasing numbers of people concerned with the way population growth is adversely affecting our environment. An increasing population is the underlying cause of many problems, ranging from pollution, traffic jams, water shortages and loss of farmland to overburdened public and social services. Thus, BALANCE proposes dealing directly with the primary cause of many environmental problems by mobilizing public support for measures that would encourage a stabilized population in the United States.

If a new Department of the Environment is created, BALANCE advocates that a population desk be made an integral part of the structure. We feel that, because of the critical importance of the link between environmental problems and population growth, population must be a major focus of any federal department assigned the task of healing our precious, finite environment.

The fact is that the United States grows by nearly 3 million people per year. Last year there were 1.6 million more births than deaths, legal immigration added about 650,000, and best estimates are that at least an equal number of illegal immigrants came to stay. A stable U.S. population size is essential if we are to prevent further deterioration of the very system that supports us -- our environment and natural resource base. We cannot go on pretending to plan for the material and social needs of our citizens if we do not also plan to limit the large number of people who are being added to our population every year.

Though the fertility rate among American women is low, the large number of baby-boom generation women currently in their childbearing years will assure a high growth rate for years to come. In the mid-1950s, approximately 47 million American women had an average of 3.7 babies each. Each woman in this country now bears an average of 1.9 children, but there are more than 70 million women in their childbearing years.

Members of BALANCE recognize -- as did the 1972 Rockefeller Commission Report on "Population Growth and the American Future" -- that every major problem facing the U.S. as a nation and humanity as a whole becomes more difficult to solve as population increases. The fact is that our efforts to mitigate or accommodate the side effects of population increase are costly false solutions which merely postpone the day of reckoning.

We must therefore address the primary cause of many of our environmental and social problems. That is, we must directly address the problem of excessive population growth. As a result of our high per capita use of resources, we are already straining the population carrying capacity of the United States and contributing disproportionately to problems such as global warming and acid rain. The United States consumes 30% of all fossil fuels used in the world.

Our habits of consumption are often attacked as being voracious and wasteful. Environmentalists plead with us to "change our ways," and in fact have had a significant impact on our thinking and behavior. But the real question is whether excessive population growth will defeat any efforts to change our behavior as a way of protecting our environment and maintaining our quality of life. Our environment is "the only one we have" -- our sole supporter, so to speak. If we do not take care of it, will it be able to take care of us?

On a larger scale, evidence of the greenhouse effect, acid rain, deforestation and ocean pollution are clear indications that the global environment is increasingly adversely affected by our growing population's demands on the ecosystems of our finite earth. All of these phenomena further reduce our environment's carrying capacity. Thus, population stabilization in the United States, as well as abroad, is a critical factor in protecting the environment and ensuring the preservation of a livable planet.

The fact is that the United States is exceeding its population carrying capacity. Our carrying capacity may be difficult to define in terms of precise numbers, but a reading of the United States' and the earth's overall health can be made in other ways. It is obvious for all to see that many of the United States' environmental and social problems -- from pollution and traffic jams to homelessness and unemployment -- are caused or worsened by population growth. All we have to do is look around us.

The states currently growing the fastest -- California, Texas, and Florida -- will continue to be burdened by population growth more rapid than they can readily absorb. If the United States does not act to stabilize population, California's population is projected to grow to 37.3 million by 2010, up from its 1985 level of 26.4 million, which represents increased growth of 40 percent in just over 20 years.

The once magnificent Texas landscape is being systematically destroyed by the pressures of too many people. Off-shore spills, off-ship dumping, industrial discharge and sewage runoff have closed beaches, degraded wetlands and destroyed wildlife. And, Texas' current population of about 17 million is expected to surpass 30 million by 2035.

Florida is suffering widespread environmental problems that adversely affect Floridians on an everyday basis. Groundwater contamination from commercial and residential development, industrial and toxic wastes, agricultural chemical runoff, and inadequate sewage treatment facilities is rapidly becoming a major problem. Much of Florida's water supply is serviced by one large aquifer. If one area is contaminated, the pollution can spread to other areas.

Florida's water supply is further threatened by untreated waste -- the result of population-fueled development -- that filters into the aquifer. On-site septic systems are inappropriate in Florida because of its sensitive soil and shallow layer of topsoil. Effluent can leach too easily and filter into the aquifer. Large-scale contamination of the water supply could put the state in the position of revisiting an era when lack of proper sanitation and clean water caused serious public health problems from water borne diseases.

Florida also faces the serious problem of loss of prime agricultural land, wetlands, and forested areas. Florida currently is losing 350,000 acres of prime farmland annually. At that rate, it is estimated that within 10 years, Florida will have paved over all of its highly profitable agricultural land and the nation will lose its prime supplier of winter vegetables and citrus crops.

All of these problems are directly or indirectly caused by increasing population pressure. And these side effects of overpopulation, although pronounced in these three states, are certainly not limited to them.

Communities across the country are experiencing problems related to overcrowding. One of BALANCE's goals is to help these local areas realize the connection between their problems of increased growth and our lack of national policies that would encourage population stabilization.

Our rural areas, too, are increasingly subjected to the strains of more and more people. The effects of increased demands in these areas might now be less obvious, but are equally frightening. According to an American Farmland Trust project, Farming on the Fringe, one-half of the nation's market value of agricultural production is produced in counties that are on the urbanizing fringe of growing metropolitan areas. The conversion of this land for purposes other than agriculture is taking place rapidly as population pressure forces people to spread farther and farther from the cities to find affordable homes, unclogged traffic, fresh air and open space.

Recent Census Bureau projections indicate that the current U.S. population of 249 million is expected to grow to nearly 302 million by 2038, according to its mid-range estimate. But the Bureau also reminds us that because projections are given in ranges, the actual total U.S. population could be as low as 264.5 million in 2020 or as high as 501 million -- and still growing -- in 2080.

With such a wide, and therefore hardly reliable, range of projections, BALANCE invites the members of the Committee to conduct their own informal surveys.

Take a look around you. How many buildings do you see going up? How many trees are going down? How many articles do you see in the newspaper every day that deal with traffic jams, overflowing landfills, housing prices, crime, pollution, loss of farmland and the homeless?

We are already overwhelming our local and national abilities to clean up the waste we have currently produced. We are already losing open space and wildlife habitat -- at staggering rates -- to make way for townhouse complexes, shopping malls, and more freeways.

In sum, we urge the members of the Committee to consider the importance of the population factor when examining the critical need for a Department of the Environment.

Thank you for this opportunity to share the views of the Board and members of Population-Environment Balance.

World Wildlife Fund
The Conservation Foundation

TESTIMONY OF

THE HONORABLE RUSSELL E. TRAIN
CHAIRMAN

WORLD WILDLIFE FUND AND THE CONSERVATION FOUNDATION

Before the
Committee on Governmental Affairs
United States Senate

on
S. 2006: The Department of the Environment
Act of 1990

February 7, 1990

TESTIMONY OF
THE HONORABLE RUSSELL E. TRAIN
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Before the
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on
S. 2006: The Department of the Environment
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February 7, 1990

Mr. Chairman and members of the Committee, I am delighted to have the opportunity to make a statement in strong support of S. 2006, a bill that establishes a Department of the Environment. My testimony is presented on behalf of the World Wildlife Fund and its affiliate, The Conservation Foundation. I am chairman of the board of both organizations. This testimony also represents my own personal views as a former Administrator (1973-77) of the Environmental Protection Agency.

With over 800,000 members in the United States, World Wildlife Fund is the largest private U.S. organization dedicated to the conservation of living resources worldwide. The Conservation Foundation conducts environmental policy studies in such areas as land use, toxic substances, national park management, groundwater, and wetlands. It is also a leader in practicing and promoting environmental dispute resolution.

I strongly favor the principal purpose of this bill -- making EPA a Cabinet Department. Clearly, this is an objective whose time has come. I congratulate President Bush for making departmental status for EPA a major proposal in his recent State of the Union address.

Protecting the environment has become perhaps the most important issue of our age. Depletion of the ozone layer, global warming, deforestation, destruction of wetlands, soil erosion, desertification, air and water pollution and loss of biological diversity are some of the challenges we are facing. Combined with rapid population growth, they represent critical problems that contribute to the breakdown of social, political and economic stability around the world. This has serious implications for international order, including the national security interests of the United States.

Because of the international ramifications of so many environmental problems, it is important that EPA be represented programmatically at the Cabinet level. As Chairman of the Council on Environmental Quality (1970-73) and as Administrator of EPA, I headed a number of U.S. delegations to both international conferences and bilateral meetings. I can personally attest to the fact that, in dealing with representatives of foreign states, rank and status are important. As you know, most other major nations have already conferred ministerial status on their environmental agency heads. In my view, if the United States aspires to leadership in formulating international environmental policies -- as I believe it must -- then it should provide Cabinet rank for its representative.

At the time of the Environmental Protection Agency's creation -- nearly 20 years again -- many people felt that concern for the environment was a passing fad. Events have proven them dead wrong. Environmental protection today is widely recognized as central to the long-term health and well-being of the American people. Since its creation, a series of new mandates has been imposed on the EPA by Congress in such areas as toxic substance control, safe drinking water and the Superfund. It has also become clear that protecting the environment is the broadest and most complex issue confronting the nation. The EPA's constituency, by definition, has to include the entire population, and its mission has implications for almost every sector of government -- energy, agriculture, health, transportation, public lands, urban affairs, business, labor defense and foreign affairs, among others.

Yet the EPA does not have the status of the other government agencies with which it must work to protect the environment. The EPA should be elevated to the Cabinet for the simple and compelling reason that environmental protection is an overwhelmingly important, long-term issue for the United States, both domestically and internationally. To do less is an anomaly in today's world.

It is worth noting, moreover, that EPA's budget and staff are larger than that of several federal departments. Certainly, the economic impact of EPA's activities is far greater than that of most departments. But, from my extensive personal experience I have seen that the administrator of the EPA remains the bureaucratic inferior of the heads of the Cabinet departments, putting environmental interests at a disadvantage in the normal government give-and-take.

The responsibilities of EPA, more than in the case of any other agency, tend to impact on the functions of other agencies. Thus, almost every regulatory initiative by EPA becomes the subject of extensive -- and sometimes seemingly interminable -- interagency review. Elevating EPA to departmental status will help ensure that important regulations do not get lost in the bureaucratic maze.

So far, I have limited my remarks to commenting on simply elevating EPA to cabinet level. S. 2006 goes beyond this. I would like to provide a few thoughts here on several of the additional provisions.

Let me say that I agree with the approach of the bill and believe it is wise not to authorize the transfer of functions to the new department from other agencies at this time. While my personal opinion is that some such transfers would be appropriate, they would inevitably raise problems of jurisdiction within the Congress, a circumstance which could well lead to there being no legislation at all. S. 2006 takes a good first step by establishing a Commission to evaluate possible reorganization, thus ensuring that reorganization is carefully considered, but that it does not jeopardize the legislation.

I also endorse the Commission's mandate to examine and make recommendations for integrating Federal environmental law. Such a review is long overdue. Most of the important environmental legislation that emerged in the 1970s and 1980s was passed in response to a particular crisis or concern. As a result, there are many overlapping or conflicting provisions, and serious environmental problems can fall through the cracks. At the most basic level, existing laws are largely oriented to treating waste, not preventing it.

The Conservation Foundation has had a long-standing interest in addressing these problems. Our studies of "cross-media" pollution have demonstrated that, with separate statutes for air, water, and land, many of the country's existing pollution controls are akin to a giant shell game. One result of our research is a draft Environmental Protection Act, which attempts to incorporate all the major environmental statutes into one law with standardized regulatory procedures. Clearly, we believe in the work the Commission is designed to do.

Regarding the provisions which establish a Bureau of Environmental Statistics, I applaud the increased emphasis that would be placed on collection of these statistics, which are so vital to wise decision-making. I agree that this function should reside with EPA, which already has considerable related technical expertise.

However, I am concerned about provisions which transfer to EPA the responsibility that now rests with the President's Council on Environmental Quality (CEQ) to compile an annual Environmental Quality Report on the status and trends of the nation's environment. As a coordinating body for federal environmental programs, CEQ is the logical office to take the lead on preparation of such a comprehensive report. From my experience as chairman of CEQ, I see no compelling reason to move the responsibility for the report, assuming CEQ is adequately staffed. Furthermore, I see no problem in keeping separate the two functions of collecting environmental statistics and compiling the annual report, with EPA responsible for the former and CEQ for the latter.

S. 2006 also proposes to create an Interagency Committee on Global Environmental Change. Because the President has already set in place mechanisms to coordinate national policies on global environmental issues, it would be redundant to legislate along these lines. It is correctly the President's perogative to decide the executive branch response to policy issues.

Regarding the several proposals under "Title IV -- Environmental Role of the United States in International Organizations to Which it Belongs," while I am sympathetic with the purposes of these provisions, I question generally the usefulness and desirability here of such hortatory language. It is probably more appropriate in a "sense of Congress" resolution than in legislation such as this.

In summary, I urge favorable consideration of S. 2006. From my own experience as Administrator, I am convinced that departmental status would enable EPA to carry out its responsibilities more effectively. Environmental protection has risen to a position of such critical importance on the national and international agenda that it demands the best we can bring to it.

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PLEASE REPLY TO WASHINGTON, D.C. OFFICE

February 9, 1990

Honorable John Glenn
Chairman
U.S. Senate Committee on
Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Glenn:

It was a great pleasure to appear before the Governmental Affairs Committee at Wednesday's hearing on S. 2006, legislation to create a Department of the Environment. I'm pleased to respond to several of the questions you raised during the hearing.

1. Timing and funding for the Commission on Improving Environmental Protection. It should not require more than 12 months for the Commission to complete its work. Although the Commission has an extremely important task, the task is a well-defined one, and quite specific in nature. The Commission will concentrate principally on structural, organizational, managerial, and procedural matters, and should not spend time on the substance of underlying programs. The Commission should be able to organize its work within 2 months, complete its basic research, hearings, and outreach to affected constituencies within 4 to 5 months, and develop tentative recommendations over a 2 to 3 month period. This would leave approximately 3 months for finalizing recommendations and preparing the final report. There should also be time for commission staff to discuss recommendations with key Hill committees in advance of the formal submission of the report.

This was roughly the schedule we followed in preparing the report of the President's Commission on a National Agenda for the Eighties (where I served as Executive Director). The Commission, which consisted of 50 presidentially-appointed commissioners, submitted nine volumes of recommendations within a 14 month time frame to President Carter and President-elect Reagan. The recommendations covered a wide range of national policy issues -- inflation, employment, budget policy, energy and environment, science and technology, and government regulation. The Commission was given a budget of $3 million; its work actually consumed $2.1 million, and the remaining funds were returned to the Treasury.

There is an additional reason for considering a 12 month time frame. If the Commission is granted two years to do its work, it will report to the Congress in mid-1992, in the middle of the presidential election season. This would almost certainly delay serious consideration of commission recommendations until a new Congress takes office in 1993. If the Commission reports in 12 months, its recommendations would be available by mid-1991, which would provide enough time for them to be considered and acted-upon by the 102nd Congress.

2. *Environment Secretary as head of the Interagency Committee*. You inquired whether there is any constitutional provision that would prevent Congress from designating the Secretary of the Environment as chairman of the Interagency Committee on Global Environmental Change. I know of no such provision, nor am I aware of any judicial decision suggesting that this would be unconstitutional. If you were to specify that a named individual is to fill a particular office, that approach *would* pose constitutional concerns. But the approach you described is no different from charging a designated office with a prescribed statutory responsibility.

The courts have historically recognized the broad latitude that Congress has to establish offices, and to designate functions that particular officers will fulfill. See *Crenshaw v. U.S.*, 134 U.S. at 105, 106 (1890); *Shoemaker v. U.S.*, 147 U.S. 282 (1893). Two Supreme Court decisions recently reaffirmed the broad congressional power to create offices and to specify functions -- the decision upholding the independent counsel law, *Morrison v. Olson*, 108 S. Ct. 2597 (1988), and the decision upholding the location and powers of the Sentencing Commission, *Mistretta v. U.S.*, 109 S. Ct. 647 (1989). Particularly in light of the Committee's strictly advisory role, I see no constitutional objection to stipulating by statute which cabinet officer shall serve as chairman.

Congress has on many occasions set up inter-agency committees by statute, and specified which officer is to serve as chairman. For example, in Section 242 of the Trade Expansion Act, 19 U.S.C. 1872, Congress created an Interagency Trade Organization to advise the President on development and implementation of international trade policy objectives. The membership consists of the Secretaries of Commerce, State, Treasury, Agriculture, and Labor, and the Trade Representative. The statute designates the Trade Representative as chairperson.

Other examples include the recently-reinvigorated National Aeronautics and Space Council, 42 U.S.C. 2471, which advises the President on performance of functions in the aeronautics and space fields (Vice President designated by statute as chairman), and the recently-created Board of the Resolution Trust Corporation (see section 501 of the Financial Institutions Reform, Recovery and Enforcement Act, which designates the Secretary of the Treasury as chairman of the Board).

In my judgment, there is ample precedent, and sufficient constitutional authority, for Congress to create an advisory cabinet-level committee on global environmental issues, and to designate by statute that one of its members shall serve as chairman.

3. Lead role for the Department. As I understand it, two basic purposes of your bill are to elevate the status of environmental issues, and to give the head of the agency more clout within the Executive Branch -- i.e., to ensure that within the area of its jurisdiction and expertise the new Department's views will be accorded significant weight by the President and the Cabinet Council.

One way to help achieve these purposes would be to include statutory language stating unequivocally that the new Department will have the "primary responsibility" with respect to matters affecting the environment, and in developing, administering, and enforcing national environmental policy. This language could be included within the basic mission language in S. 2006; alternatively, it could be included in the "findings and purposes" section of the statute. (An analogous approach was used in the Trade Reorganization Plan, which provides the U.S. Trade Representative with primarily responsibility for "developing" and "coordinating" international trade policy. See §1(b)(1) of the Plan.)

Although this language won't eliminate jurisdictional battles within the Executive Branch, this type of statutory language should strengthen the new secretary's hand in the battles he will inevitably confront with other department heads (such as State, Energy, or Interior), and provide him with affirmative statutory language he can point to in order to buttress his case. Such language would also reinforce the high priority the Committee and Congress as a whole attaches to environmental protection.

4. Reconfirmation of appointees? This is a question the Committee might want to consider further. If the legislation assigns new duties to the Secretary, Deputy Secretary and Assistant Secretaries, duties that are different from those now

carried out by the Administrator, Deputy Administrator, and Assistant Administrators, then requiring re-confirmation of top appointees, as S. 2006 would require, is appropriate. However, if the duties to be assigned are substantially the same as the ones these officers are now carrying out, you might consider allowing these individuals to continue in office without reconfirmation (as the House bill would).

Senate confirmation can be a time consuming process. The individuals who hold the top positions at EPA have all, within the last 12 months, submitted to a thorough review of financial holdings, potential conflicts of interest, personal qualifications, and other relevant matters. It should not be necessary to subject these individuals to this type of review a second time, especially within such a short time frame. A confirmation review could also distract these officials from on-going job responsibilities, at the very time that Congress has attached increasing importance to these responsibilities, and demands that appointees give these responsibilities their full attention.

There is precedence for this approach. When the Government Operations Committee considered the legislation that made the OMB Director subject to Senate confirmation, the Nixon Administration requested that the incumbent Director, Roy Ash, be exempt from the confirmation requirement. The Committee eventually included a provision grandfathering Mr. Ash, and the first confirmation did not take place until Jim Lynn was nominated to the post of OMB Director by President Ford. It should be even easier to justify this approach in the case of the Department of the Environment, since officials who will occupy the senior positions have recently been approved by the Senate.

I hope these additional comments are helpful.

With all best wishes.

Sincerely,

Dick Wegman

Richard A. Wegman

EPA and the World Clean-up Puzzle

by James Gustave Speth

Twenty years ago, the U.S. government responded vigorously to a rapidly growing public concern about the environment. New national policies were declared; EPA and other agencies were created; and major pollution clean-up and resource management initiatives were launched.

It is customary to think of that fertile period as giving birth to modern environmentalism in America, but that is only partly true. The period from the mid-1960s to the mid-1970s also represented something else: a shift in environmental initiative from the state and local level to the national level. The focus of leadership changed because the environmental challenges of the day could only be tackled successfully on a national basis.

Today, we are seeing a remarkably similar surge in environmental interest. Once again, the media are full of stories, and environmentalists are full of proposals. But there is a basic difference. Today the shift in attention is from the national level to the international.

The environmental concerns now gaining prominence encompass the life-supporting systems of the planet's biosphere. They include the alteration of climate and biogeochemical cycles, the destruction of earth's ozone shield, the loss of tropical forests and biodiversity, the spread of traditional pollutants beyond urban-industrial areas and across national borders, and the erosion of the natural resource base in developing countries. Increasingly, environmental concerns are transcending national laws and are intersecting international economic and security interests in powerful ways.

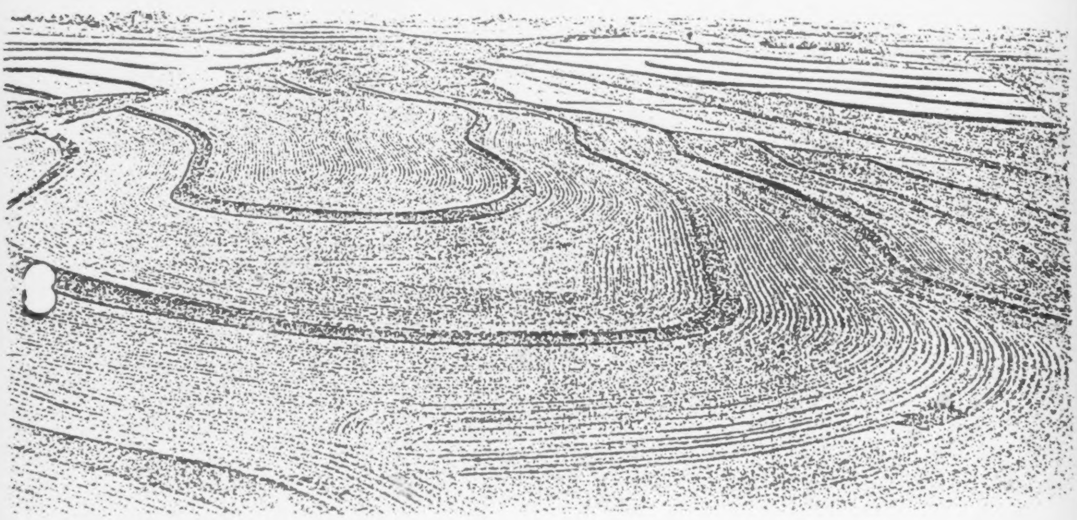
The emergence of environmentalism in recent decades—first local, then national, and now international—has much to do with the successes and failures of economic activity. The 20th Century has witnessed explosive growth. World population has tripled to five billion, and today's world economy is 20 times larger than in 1900. One result is that pollution and waste generation are occurring on a vast and unprecedented scale. Global fossil fuel use, for example, has increased ten-fold in this century, and the resulting emissions have likewise grown: sulfur dioxide, six-fold; nitrogen oxides, ten-fold; carbon dioxide, ten-fold.

Meanwhile, human demands on biological systems have grown to the point that we consume about 40 percent of the world's total terrestrial photosynthetic productivity, and much of this is occurring in a way that is not biologically sustainable. For the first time, human impacts have grown to approximate those of the natural processes that control the global life-support system.

The future could hold more of the same—a lot more. The scale and momentum of economic activity on the planet today are difficult to comprehend. It took all of human history to grow to the $600-billion world economy of 1900. Today the world economy grows by more than this amount every two years. By the middle of the next century, a scant lifetime away, our human world of five billion people will likely double to 10 billion, and our global economy of $12 trillion likely will be five times as large as today.

Societies near and far have set two long-term goals for themselves—improving environmental quality and achieving large increases in economic activity. Reconciling these two goals will be one of the dominant

USDA photo.



challenges facing political leaders on all continents in the 1990s and beyond. The United States should be a leader in meeting this challenge, but whether we lead or follow, we will have to respond. For EPA, this new reality will require major changes in two areas: international activities and technology transformation.

International Activities

Several factors are pushing environmental concerns increasingly into the international arena. More and more, pollution is transboundary and even global in scope. Pressures on shared resources, such as river basins and coastal fisheries, are mounting. Resource deterioration in many nations is so extensive that other countries are affected, for example, when ecological refugees flee across borders. As international trade increases, commodities and merchandise become the carriers of domestic environmental policies that must be rationalized.

It is not just that there are more environmental problems like ozone depletion that must be dealt with at the international level; it is also that the line between national and international environmental problems is fast disappearing.

Nitrogen oxide emissions, for example, must be regulated locally because of ground-level ozone formation, regionally because of acid rain, and globally because ground-level ozone is an infra-red trapping "greenhouse" gas. Methane and, indirectly, carbon monoxide also contribute to the Greenhouse Effect.

In these instances, domestic and global environmental concerns push in the same direction. On the other hand, a major move to methanol as a substitute for gasoline could increase the global warming risk. A car burning methanol made from coal would result in perhaps twice the carbon dioxide emissions per mile as one burning gasoline.

Environmental diplomacy is the logical outgrowth of the desire to protect one's own national environment, to minimize environment-related conflicts with other countries, and to realize mutual benefits, including economic progress and the protection of the common natural heritage of mankind. As such, it is not entirely new. The register of international conventions and protocols in the field of the environment has grown steadily in this century; the main multilateral treaties today number about 100, many of them having to do with the protection of the marine environment and wildlife.

What is new is the prospect that environmental issues will move from a secondary to a primary international concern and increasingly crowd the diplomatic agendas of nations. And these diplomatic agendas in turn will increasingly affect domestic environmental policy. U.S. environmental policy will more and more be set in concert with other nations.

It is not fully discernible what the challenge of "internationalization" means for EPA in practical terms. Eventually, major policy and institutional innovations will be required. Certain preliminary initiatives seem highly desirable, though.

Elevating the head of EPA's Office of International Activities to Assistant Administrator status was a commendable step in the right direction. Efforts to give international dimensions a higher priority within the Agency should continue. Even more important is ensuring that domestic and international activities are actually coordinated internally.

EPA also needs a world-class capacity to follow relevant developments in other countries and in international institutions, to understand and analyze the various approaches to environmental protection being taken abroad, and to anticipate future needs and developments at the international level.

Beyond EPA's internal workings, new patterns of relating to other federal agencies seem desirable. Neither global nor local atmospheric issues are likely to be solved unless energy and environmental policy are made together in the future. As environmental diplomacy increases, finding appropriate patterns of interaction with the Department of State will become imperative.

Moreover, the future is likely to bring increasing efforts to link environmental objectives and trade policy. For example, should the United States restrict imports of products that are manufactured by processes that harm the environment, much as we restrict imports of endangered species and harmful products? Should we import copper from countries where smelters operate without serious pollution control?

Much of EPA's international activity in the past has focused on the Organization of Economic Cooperation and Development and other trans-Atlantic matters. In the future, the North-South and East-West dimensions will rival the North-North ones in importance. It already seems clear that solutions to the most serious global environmental challenges will require a series of vital understandings between the industrial and the developing countries.

For example, the developing countries will expect the industrial countries to take the first and strongest actions on global warming. They will want to see the seriousness of the threat validated, and they will conclude, quite correctly, that the industrial countries are largely responsible for the problem and have the most resources to do something about it.

But a tragic stalemate will occur if this argument is carried too far. Developing countries already account for about a fourth of all "greenhouse" gas emissions, and their share could double by the middle of the next century. Increasingly, all countries will be pressed to adopt energy and forestry strategies that are consistent with containing the Greenhouse Effect within tolerable limits.

The United States and EPA need to build a new set of relationships with developing country officials so that confidence and trust are built for the challenging times ahead. One major step in this direction would be for the United States to initiate a new program of international environmental cooperation with developing countries.

Such a program would not be limited to AID-eligible countries but would extend to countries like Brazil and Mexico. It would provide technical assistance, training, access to information and expertise, and planning grants all aimed at increasing the capacity of developing countries to manage their environmental challenges.

EPA should also begin to think creatively about how international environmental regulation should be done in the future. The *ad hoc* processes that have led to the

Erosion control on an Iowa farm: When corn is planted in the residue of last year's soybean crop, no tilling is required. The author proposes a special panel to recommend ways in which major sectors of the economy, such as agriculture, might be redesigned to meet economic needs without degrading the environment.

stratospheric ozone layer convention and other agreements will need eventually to be replaced by a more expeditious, permanent mechanism that can function across a broad range of issues.

It is interesting to ask whether the evolution of environmental decision-making in the European Community offers lessons for other contexts. What happened in Europe, where both economic integration and transboundary pollution led to coordinated environmental policies, is actually happening more slowly on a world scale as the world economy expands and becomes more integrated.

Technology Transformation

A second major challenge is for EPA to organize to promote rapid and far-reaching technological change. Imagine, just as a simple thought experiment, what would happen if "greenhouse" gases, industrial waste, and other pollutants increased proportionately with the five-fold expansion in world economic activity projected for the middle of the next century. That would indeed happen if this growth merely replicates over and over today's prevailing technologies, sadly conceived.

Seen this way, reconciling the economic and environmental goals societies have set for themselves will occur only if there is a transformation in technology: a shift, unprecedented in scope and pace, to technologies—high and low, soft and hard—that facilitates economic growth while sharply reducing the pressures on the natural environment.

We need the technology for a new agriculture, one redesigned to be sustainable both economically and ecologically, which stresses low input of commercial fertilizers, pesticides, and energy. And we need new technology to transform industry and transportation from an era of materials-intensive, "high-throughput" processes to an era that uses fuel and material with great efficiency, generates little or no waste, recycles residuals, releases only benign products to the environment, and is, hence, more "closed."

Guiding and speeding the application of solution-oriented technologies will also require institutional innovation at EPA. What if EPA were organized not strictly by air pollution, water pollution, pesticides, and so on, but by transportation, manufacturing, agriculture, energy, and housing? These great sectors of economic services are technology-based and technology-driven. In the past EPA has tended to stand "outside," imposing external pollution control standards.

In the future, EPA must come "inside," and environmental factors must be integrated into the basic design of our transportation, energy, and other systems. A new type of cooperation among the private sector, EPA, traditional Cabinet agencies, and environmental advocates must be formed. Together, we must work upstream to change the products, processes, policies, and pressures that give rise to pollution.

To start this process, the President and EPA could establish a distinguished panel from within and outside government to recommend long-term goals for meeting the following challenge: how can the major sectors of the U.S. economy—manufacturing, agriculture, transportation, housing, and energy—be redesigned in the years ahead so that they fulfill economic needs without destroying our national and global environments?

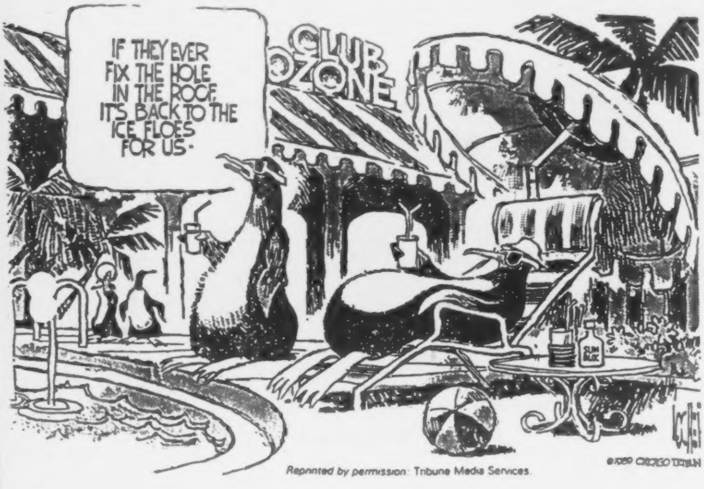
What are the critical technologies in each sector, and how can they be further developed and promoted? The panel would examine what America's longer term goals should be in these areas, and it would explore how "seeing the future" can be used to enhance American exports and promote other national goals.

A new federal center associated with EPA could be created to work as a catalyst within the federal system and between government and the private sector. The center would have a policy research budget and would carry out a variety of research, convening, coordinating, and educating functions. It would try to define a series of win-win options and stimulate public and private action to promote these options.

Alternatively, EPA could create an Assistant Administrator for Technology and Strategy with a staff of scientists, engineers, business managers, economists, and others organized by economic sectors. Similar offices should be established in other federal agencies and given mandates to cooperate with EPA in promoting patterns of environmentally sustainable development.

Environmental protection began as a local and national concern, but the challenges ahead are such that it must become a major international concern as well. It began on the periphery of the economy, bottling up some pollution here, saving a bit of landscape there, but it must spread a creed and code to the core of economic activity. By moving ahead to address these new realities, EPA can perform an immense public service. □

(Gus Speth is President of the World Resources Institute, an environmental research and policy institute in Washington, DC.)


IF THEY EVER FIX THE HOLE IN THE ROOF, IT'S BACK TO THE ICE FLOES FOR US.
CLUB OZONE
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ISSUES AND IDEAS

JANUARY 1990

ENVIRONMENTAL SECURITY FOR THE 1990s... IN SIX NOT-SO-EASY STEPS

by James Gustave Speth

If the late 1980s was a period of impressive public speech about the global environment, the 1990s will test whether political leaders around the world are prepared to move beyond words to action.

The communique that emerged from the 1989 Group of Seven summit in Paris—the so-called "green summit"—was powerful and even eloquent. As the summit closed, the seven heads of state cited the "urgent need" for "a determined and concerted international response" to safeguard the environment. The G-7 will meet again in Texas this summer, one of numerous major events already scheduled for 1990 that provide an opportunity for world political leaders to launch a decade of action for the global environment.

These opportunities come not a moment too soon, for a new kind of international security threat is advancing on us. The world's geopolitical systems may be faring better, but its ecological systems are in trouble.

PLANETARY PROBLEMS

Human activity in the biosphere is now proceeding along paths that cannot be sustained without dramatic reductions in the prospects for human well-being. Acid rain, oxidants, and other consequences of fossil fuel use are affecting plant and animal life—damaging forests and fish, harming crops, changing the species composition of ecosystems—over large regions of the globe. Depletion of the stratosphere's ozone layer is a matter of such concern that an international treaty has been negotiated to reduce emissions of chlorofluorocarbons, but the latest measurements indicate that the current treaty is already inadequate. And, probably most serious of all, the buildup of greenhouse gases in the atmosphere continues. This buildup—largely a consequence of the use of fossil fuels and chlorofluorocarbons, deforestation, and various agricultural activities—threatens societies with far-reaching changes in climate and sea level.

> The world's geopolitical systems may be faring better, but its ecological systems are in trouble.

Simultaneously, the world's tropical forests are being rapidly destroyed—the conservative estimate is one acre each second. As these forests are cut down, thousands of plant and animal species are lost forever. The planet's greatest storehouse of biological diversity is its tropical forests, and if current destruction continues, hundreds of thousands of species will become extinct by the year 2000. Already human activities are extinguishing an estimated four species every hour.

Developing countries are also the scene of what is, for them, a more immediate tragedy. Their economies are many times more dependent than those of industrial countries on their natural resources—soils, water, fisheries, forests, and minerals—yet this resource base is eroding rapidly, and prospects for food production and economic growth are being undermined as a result.

Mr. Speth is president of the World Resources Institute. The author gratefully acknowledges the contributions made to this essay by members of the WRI staff and board of directors.

Portions of this essay appeared earlier in The Christian Science Monitor.

WORLD RESOURCES INSTITUTE
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In 1984, the United Nations predicted that, without corrective action, rain-fed croplands in the Third World will become 30 percent less productive around the end of the century because the soil is depleted or eroded. Already, a billion people (mostly in South Asia and Africa) live in households too poor to obtain the food needed to sustain work and normal activities. Fuelwood shortages affect an estimated 1.5 billion people in 60 countries. Ten trees are cut down for every one replanted in the Third World; in Africa, the ratio is thirty to one.

The ties between poverty and environmental degradation run in both directions. Past resource losses deepen today's poverty, while today's poverty makes it very hard to care for or restore the agricultural resource base and to find alternatives to deforestation.

The emergence of these patterns in industrial and developing countries has much to do with the successes and failures of economic activity. The Twentieth Century has witnessed explosive growth: since 1950, world population has doubled to five billion and the world economy has quadrupled. One result is that pollution and waste generation are occurring on a vast and unprecedented scale. Global fossil fuel use, for example, has increased ten-fold in this century, and the resulting emissions have likewise grown. Another result is that the legions of the poor and landless have swollen. Human demands on biological systems have increased to the point that we consume an estimated 40 percent of the world's total terrestrial photosynthetic productivity, and much of this is occurring in a way that is not biologically sustainable. For the first time, human impacts have grown to approximate those of the natural processes that control the global life-support system.

These challenges are closely interlinked, planetary in scale, and deadly serious. They cut across sectors and regions. They cannot be addressed issue by issue or by one nation or even by a small group of nations acting alone. They will not yield to modest efforts in the face of a possible doubling of world population and quintupling of world economic activity in the lifetime of today's children.

STEPS TOWARD A WORKABLE WORLD

Against this backdrop, what the world community does in the 1990s is critical. Environmental deterioration will continue in the new decade: its forward momentum will require years to halt, much less reverse. But the 1990s can also be an exciting period in which nations redeploy some of the will and talent and resources being liberated along with Eastern Europe to deal with problems massing on the environmental front. If that happens, we can leave a legacy of hope to the new century.

To address the environmental challenges of the 1990s, a series of large-scale social and economic transitions is needed. Everywhere, environmental deterioration is integrally related to economic production, technology, the size of human and animal populations, social equity, and a host of other factors. The actions we must take to reverse this deterioration are so many and fundamental that we must think not merely in terms of discrete initiatives but also in broad macro-transitions with multiple benefits. These transitions require action in areas that lie outside traditional environmental policy. They must be pursued in both the industrial and developing countries, and cannot be achieved without a genuine partnership between North and South.

> We can gauge political leadership in the 1990s by whether it promotes six broad transitions—the necessary "mega-trends" of global environmental protection.

We can gauge political leadership in the 1990s by whether it promotes these transitions—the necessary "mega-trends" of global environmental protection. Because these transitions are interdependent, the possibility exists for positive change in one area reinforcing or even spurring progress in another.

1. A demographic transition toward stable populations both in nations where growth is explosive and on a global basis before the world's population doubles again. Population size and growth rates contribute to virtually every environmental challenge societies face today. Just try to imagine a workable world of 10 billion people, twice today's population; then consider that some recent projections put global population at 14 billion in the next century.

A stabilization strategy should be directed at three goals: alleviating poverty, improving the status of women, and reducing both mortality and fertility rates. Specifically, nations should sharply increase access to family planning information and services, reduce death rates by making basic sanitary services and health care widely available, and greatly expand the educational and employment opportunities open to women.

2. A technological transition away from today's resource-intensive, pollution-prone technologies to a new generation of environmentally benign ones. The environmental protection approaches of the 1970s have bought time; now far more is needed. Societies can both protect the environment and achieve expected economic growth only by leaving Twentieth Century technologies behind and rapidly adopting Twenty-First Century technologies that integrate environmental goals into the basic design of transportation, manufacturing, energy, and other systems. An environmental revolution in technology is required, and its potential must be fully developed and made widely available both East-West and North-South.

Nowhere is this technological transformation more important than in the energy sector, given the tremendous problems caused by today's extravagant fossil fuel use. Economical technologies are available today—in transportation, housing, manufacturing, and other sectors—to achieve dramatic increases in energy efficiency. In a high-efficiency, low-energy future, the great energy supply debates (such as coal vs. nuclear) lose much of their significance, and environmental problems are knocked down to manageable proportions.

This technological transition, like the others, cannot be thought of as involving only government, but must fully engage private business, the technical community, "green" consumers, and countless local and national organizations. To support these efforts, the market mechanism must be made to work for environmental protection, guiding technological innovation that should not be micromanaged by government.

Over much of the world, the greatest destroyer of the environment is poverty. The Third World desperately needs major new financial resources dedicated to sustainable development.

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3. An economic transition to a world economy based on reliance on nature's "income" and not depletion of its "capital." In countries around the world, inappropriate subsidies and other policies now encourage deforestation, excess pesticide use, energy inefficiency, and water wastage. National income accounts that treated natural resource deterioration correctly—as another form of capital depreciation—would show that today's societies are living off nature's capital to an alarming degree.

In market economies, this economic transition depends on environmentally honest prices—prices that include the full environmental costs of production, use, and disposal. Accurate pricing will require measures such as pollution taxes, user fees on virgin materials, and eliminating subsidies. Because such measures can also enhance government revenues, the needed revolution in pricing can go hand in hand with shifting of a share of the tax burden away from activities that should be encouraged, such as earning income, and onto activities that should be discouraged, such as generating pollution and waste.

4. A social transition to a more equitable sharing of environmental and economic benefits. Today, the rich are consuming the world's resources at high rates, while the poor are destroying the resources on which they depend because no alternative is open to them. Over much of the world, the greatest destroyer of the environment is poverty. The Third World desperately needs major new financial resources dedicated to sustainable development. Here there are two linked and complementary needs: to increase sharply both official development assistance and private investment in developing countries, and to improve the way both current and new funds are spent. Increasingly, development assistance and private investment should be channelled to generate environmentally nondestructive employment opportunities for the world's poor.

A lasting transition out of poverty—essential both to meet basic human needs and to take pressure off a deteriorating resource base—is unlikely if the United States and other industrial countries don't strengthen their development assistance, relieve the burden of international debt, and take other major initiatives.

Efforts to promote the status of women, achieve land tenure reform, strengthen non-governmental organizations, encourage democratization, achieve arms reduction and demilitarization, and curb corruption and drug abuse are all linked directly to achieving national and global environmental objectives.

5. A transition in information and consciousness to a far more profound understanding of global sustainability. This transition requires major gains in understanding natural systems and human impacts on them, in monitoring and assessing environmental conditions and trends, and in providing indicators that can help both policy-makers and the public grasp important trends and gauge progress. Scientific research is needed to reduce uncertainties on global warming and other major planetary changes. The funding for scientific and policy research must come to be seen as an investment in the creation of information. Such investments have very large returns. Simultaneously, awareness of the seriousness of environmental problems and the necessary directions of change must be communicated to an ever wider public.

6. An institutional transition to new arrangements among governments and peoples that can achieve environmental security. Because environmental policy will increasingly be set in concert with other nations, the United Nations and other institutions need the capability to reach a broad array of international agreements more swiftly and surely and with less *ad hoc*-ery. Because environmental objectives cannot be met through environmental action alone, new arrangements are needed to integrate these objectives into such other fields as trade and debt policy, agriculture, energy, transportation, foreign policy, and development policy and assistance. Because none of today's major environmental challenges can be met without a new era of heightened cooperation between industrial and developing countries, institutional innovations are needed to facilitate over time a complex set of understandings and agreements—a "grand bargain"—between North and South.

This institutional transition is needed at all levels, from the top down and from the bottom up. For world political leaders, the challenge is to devise a new system of shared international responsibility. The goal of diplomacy must shift from conflict management to common endeavor. Equally significant for this next round, though, will be the activity of citizen groups, non-governmental organizations, and communities. In both industrial and developing countries, countless local initiatives are a potent and growing force for change. They need encouragement, support, and in many cases funding from development agencies.

PRIORITIES FOR THE 1990s

As the 1990s begin, the nations of the world should come together in recognition of these challenges. They should declare that a priority mission of international cooperation and diplomacy in the 1990s will be to deliver a gift to the new century of a planet sustained.

The Four Horsemen of the modern age have been the ascendancy of militarism and the vast armadas it has spawned, the authoritarian suppression of human rights, the widespread poverty and hunger now afflicting a fifth of humanity, and the unrelenting assault on the environment and the natural systems. Here, on the cusp of the 1990s, as the Cold War seems to be winding down and democracy rising, we must both encourage these geopolitical developments and launch in earnest a decade of action against world poverty and environmental deterioration.

ABOUT WRI

World Resources Institute (WRI) is an independent research and policy institute founded in 1982 to help governments, environmental and development organizations, and private business address a fundamental question: How can societies meet basic human needs and nurture economic growth without undermining the natural resource base and environmental integrity?

The institute's 85 staff members span science, economics, and policy to provide accurate information on global resources and develop viable policy options. WRI currently focuses on four broad areas—forests and biological diversity; energy, climate, and pollution; economics and institutions; and resource and environmental information—and augments policy recommendations with field services and technical support for groups working in natural resource management.

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